

UN Assistance Mission for Iraq



بعثة الأمم المتحدة

(UNAMI)

لتقديم المساعدة للعراق

## Human Rights Report

1 July – 31 December 2007

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## Executive Summary

1. The last three months of 2007 were characterized by a marked decrease in violent attacks involving mass casualties, including suicide attacks and car bombings, a trend which was attributed to the ongoing “surge” within the Baghdad Security Plan.<sup>1</sup> The Government of Iraq continued to face enormous challenges in its efforts to bring sectarian violence and other criminal activity under control against a backdrop of political instability and stalled efforts in revitalizing a national reconciliation process. The extent to which the decrease in violence was sustainable remained unclear, with the security situation still precarious in many parts of the country. As security improved in parts of Baghdad and other locations, it deteriorated elsewhere with heightened activity by insurgent groups and others in governorates such as Mosul and Diyala. The civilian population remained in the frontlines of the violence perpetrated by armed groups and militia, with less spectacular but equally devastating consequences. Both Iraqi security personnel and the armed forces bore the brunt of other attacks, while MNF forces also continued to suffer casualties.

2. Both Sunni and Shi'a armed groups deliberately targeted civilians through suicide bombings, car bombs and other attacks while making no distinction between civilians and combatants. Such systematic or widespread attacks against a civilian population are tantamount to crimes against humanity and violate the laws of war, and their perpetrators should be prosecuted. Massive car bombings and suicide attacks had devastating consequences for the civilian population, while other attacks targeted government officials, religious figures, state employees, law enforcement personnel and professional groups including academics, journalists, lawyers and judges. Religious and ethnic minorities and other vulnerable groups were also victims of violent attacks, as were women in so-called ‘honor crimes’. Despite the decrease in the general level of violence in the fourth quarter of 2007, there were numerous incidents involving intimidation, threats, abductions for ransom or other motives, torture, assassinations and extrajudicial killings.

3. Ongoing sectarian violence drove thousands of people from their homes. The United Nations High Commissioner for Refugees (UNHCR) estimated that as of December there were over 4.4 million displaced Iraqis worldwide, including some 2.5 million inside Iraq and about 1.9 million in neighboring countries. Shelter, food, employment and access to basic services remained primary concerns. Restrictions on access to some governorates were imposed, while in others registration was curtailed, depriving IDPs of access to food rations, fuel and basic services. Further returns of IDPs and refugees to their place of origin or residence were observed during the last quarter of 2007. While not encouraging or promoting such returns at this time, the UN was taking steps to support the Iraqi authorities in meeting the assistance needs of returnees. UNHCR and the International Organization on Migration (IOM) continued to provide support to the Ministry of Displacement and Migration to support IDPs and refugees. A Joint Government of Iraq-UN Rapid Response Plan for Immediate Assistance to Iraqi Returnees in Baghdad was under implementation, together with a comprehensive plan within the Consolidated Appeal Process to support all returnees.

4. UNAMI acknowledges the measures taken by the Government of Iraq and the judicial authorities to improve the handling of detainees, including efforts to ensure more effective judicial oversight and alleviate overcrowding. The growing detainee population continued to pose challenges for the authorities, given the limited capacity to accommodate new intakes and the difficulties in ensuring timely reviews of detainees’ cases, both of which remain problematic. UNAMI welcomes the significant expansion of judicial capacity to process the thousands of cases, particularly at the investigative stage, as well as new directives issued by the Iraqi Government in September to regulate detention affairs. UNAMI remained concerned, however, at continuing prolonged delays in reviewing detainee cases; the lack of timely and adequate access to defense counsel for suspects; the failure to promptly and thoroughly investigate credible allegations of torture and to institute criminal

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<sup>1</sup> The downturn in violence during this period coincided with a Mahdi Army six-month ceasefire declared by Shi'a cleric Muqtada al-Sadr on 29 August 2007 in the wake of armed clashes between the Mahdi Army and the Badr Organisation in the city of Karbala’.

proceedings against officials responsible for abusing detainees; and the procedures followed by the Central Criminal Court of Iraq (CCCI) and other criminal courts, which fail to meet basic fair trial standards.

5. The MNF authorities introduced measures designed to improve the handling of detainees' cases by expediting reviews and decisions on releases. An additional review process was introduced for security internees, as well as a new program to facilitate the release of larger numbers of detainees. However, UNAMI's long-standing concerns with respect to due process rights of detainees within the legal framework adopted by the MNF remained unaddressed. The marked rise in the number of juvenile detainees held in MNF custody was also of concern, as was the continuing practice of holding detainees following dismissal of their cases at trial by the CCCI. The granting of access to MNF detention facilities to independent human rights monitors engaged in public reporting, including UNAMI, remained pending. In a positive development, the MNF launched a major rehabilitation program for both adult and juvenile detainees, including basic education classes, teacher training, vocational training, and a work program for adult detainees.

6. Incidents involving civilian deaths or injuries caused by the actions of private security contractors continued to be reported, with at least five such instances recorded in October and November involving several private security firms. The most serious of these, which left 17 civilians dead, occurred in September following shooting by employees of Blackwater in the al-Mansour district of Baghdad. While investigations into these incidents were ongoing at this writing, UNAMI remains concerned that those responsible have not, to date, been held accountable under domestic legislation in their own countries. Draft legislation submitted by the Government of Iraq aimed at lifting immunity from Iraq criminal prosecution for foreign contractors remained stalled in the Council of Representatives, according to government officials.

7. In the Kurdistan Region, gender-based violence remained a serious concern. UNAMI welcomed the KRG authorities' creation of a department to combat violence against women within the Interior Ministry, but further concerted efforts and political will are required to initiate prompt and thorough investigations into these incidents and to initiate criminal proceedings against those responsible. Local journalists continue to face harassment and arrest, apparently linked to articles they had published in regional newspapers on issues of public interest and other subjects. The KRG authorities made progress in reviewing the cases of detainees held in prolonged administrative detention, leading to scores of releases. Several positive recommendations were also put forward by a ministerial committee charged with assessing prison conditions and the legal status of inmates, but the practice of holding hundreds of terror and other suspects illegally and for indefinite periods continued. Incidents involving torture by security and intelligence personnel remain without serious investigation and few if any perpetrators are held accountable.

8. UNAMI welcomes the Iraqi Government's decision to ratify the UN Convention Against Torture, which was awaiting the passage of enabling legislation by the Council of Representatives. It also welcomes the invitation extended in December to the UN Special Representative of the Secretary-General for Children and Armed Conflict.<sup>2</sup> UNAMI strengthened its working relationship with the four ministries involved in law enforcement, detentions and the administration of justice (Justice, Interior, Defense and Labor and Social Affairs), acknowledging the improved cooperation it has received. UNAMI notes a greater degree of transparency and access to information pertaining to law enforcement issues on the part of both Iraqi officials and their international advisers. Monitoring and interventions by the Ministry of Human Rights through regular inspections of detention facilities and other initiatives also ensure a level of oversight by the executive authorities. UNAMI also acknowledges the work of the Council of Representatives' Human Rights Committee, notably on draft legislation affecting a range of human rights issues and visits undertaken to detention facilities. In the

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<sup>2</sup> Iraq ratified the two Optional Protocols to the UN Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography. These entered into force on 3 July 2007 following the publication of Law No. 23/2007 in Iraq's Official Gazette.

Kurdistan Region, the KRG authorities continued to work effectively with UNAMI in seeking resolution of a range of human rights concerns, including violence against women and due process issues. UNAMI also cooperated with the legislative authorities in both Baghdad and Erbil on several pieces of draft legislation affecting, among other things, the situation of women, freedom of expression and the establishment of a national human rights commission. UNAMI's program of capacity building and training activities, particularly for government officials, remains active.

9. In November, UNAMI received detailed comments on its last Human Rights Report from the Higher Judicial Council, focusing on the judicial authorities' efforts in respect of the handling of detainees.<sup>3</sup> The Higher Judicial Council stated that UNAMI's report was notable for its "credibility in presenting the facts and their causes", and expressed its appreciation that the positive measures adopted by the judiciary with regard to due process and detentions had been highlighted by UNAMI. It noted, however, that several other measures adopted in this regard during the reporting period had not been mentioned,<sup>4</sup> and that UNAMI's recommendation that mechanisms for ensuring speedier resolution of detainee cases be instituted lacked details on the nature of such mechanisms. In its letter, the Higher Judicial Council listed a number of recommendations to judicial personnel which it intended to institute. UNAMI appreciates the constructive dialogue established with the Higher Judicial Council and remains committed to working with the judicial authorities in ensuring respect for the rule of law.

10. On 29 February, UNAMI submitted the current Human Rights Report for comment to the Government of Iraq and the Kurdistan Regional Government, as well as extracts from the report pertaining to MNF practices to the US and UK Embassies in Baghdad.<sup>5</sup> While no comments were received from the Government of Iraq, UNAMI remains engaged in discussions with the relevant executive and judicial authorities on issues of concern. UNAMI received the comments of the KRG authorities on 13 March, as well as those of the US Embassy and MNF.<sup>6</sup> The UK Embassy informed UNAMI that it did not intend to submit any formal comments on the report.<sup>7</sup> In their response, the KRG authorities disputed some of UNAMI's findings and provided additional and more recent data on a range of concerns, which are reflected in this report. In its response, the US Embassy questioned the factual accuracy of data or assessments provided by UNAMI, and these comments are reflected in this report. Other comments involving legal interpretations or other ongoing discussions between UNAMI and the US authorities, which had been highlighted by UNAMI in past reports, will be reflected in its future publications together with other substantive comments received from the KRG authorities.

## Recommendations

11. The Human Rights Office (HRO) of the United Nations Assistance Mission for Iraq (UNAMI) engages in the promotion and protection of human rights and the rule of law in close collaboration with Iraqi governmental and non-governmental sectors, in accordance with UN Security Council Resolution 1770 (2007), paragraph 2 (c), which mandates UNAMI to "promote the protection

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<sup>3</sup> Letter to UNAMI from the Head of the Higher Judicial Council's Judicial Oversight Committee, dated 8 November 2007. UNAMI's Human Rights Report, 1 April-30 June 2007, was published in October 2007.

<sup>4</sup> The measures referred to by the Higher Judicial Council fell outside the reporting period of UNAMI's report.

<sup>5</sup> Comments of a factual nature received and verified by UNAMI are reflected in this report, while other substantive comments will be reflected, as appropriate, in future reports.

<sup>6</sup> Letter from the United States Embassy in Baghdad to UNAMI, dated 13 March, 2008. The letter stated that the US Embassy "continues to value the vital work" performed by UNAMI, and that UNAMI's "role in helping the Iraqi government develop a sovereign Iraqi human rights system that both protects and promotes human rights is important for the people of this nation. We, too, share the same goals and welcome your efforts". UNAMI's letter to the US Embassy also invited comments from the MNF-I, in accordance with the practice agreed upon that UNAMI channel such requests through the US Embassy.

<sup>7</sup> Letter from the United Kingdom Embassy in Baghdad to UNAMI, dated 13 March, 2008. The letter "reiterate[s] the United Kingdom's commitment to engage constructively with UNAMI in the promotion and protection of human rights in Iraq and welcomes and encourages UNAMI's continued efforts in this field".

<sup>8</sup> To that

end, UNAMI monitors the human rights situation in Iraq and assists, especially through capacity-building activities, in the rehabilitation and reconstruction of state and civil society institutions. It collaborates closely with local human rights groups and seeks to maintain direct contact with victims and witnesses of human rights violations.

12. UNAMI's regular human rights reports are intended to assist the Government of Iraq and the Kurdistan Regional Government in ensuring protection of basic human rights and respect for the rule of law. Iraq remains bound by both its international treaty obligations and its domestic legislation in taking measures to curb violence. The International Covenant on Civil and Political Rights (ICCPR), in particular, is clear on the basic protections that must be afforded to persons and from which no derogation is permissible even in times of emergency.<sup>9</sup> UNAMI remains committed to maintaining a constructive dialogue with the authorities in order to achieve these objectives, and to providing capacity building and training programs for the governmental and non-governmental sectors, in accordance with needs assessments and requests received.

13. Based on its assessment of the human rights situation in Iraq, UNAMI makes the following recommendations:

### **Recommendations to the Government of Iraq**

- a) Issue on a regular basis mortality data compiled by the Ministry of Health, based on information received from all governorates and statistics kept at the Medico-Legal Institute in Baghdad, together with details of the methodology used to calculate the figures.
- b) Sustain efforts and adopt effective measures to support vulnerable communities, including religious and ethnic minorities, through the allocation of additional resources to meet the needs of the large numbers of displaced persons from these communities; adopt measures to ensure that other vulnerable groups, including third country nationals, receive protection from the state; reaffirm the authorities' commitment to the principle of *non-refoulement*.
- c) Investigate incidents involving gender-based violence, in particular so-called 'honor crimes' perpetrated against women, and take measures to ensure that persons found responsible for perpetrating these crimes are held accountable and brought to justice; consider amending criminal legislation permitting the application of mitigating circumstances to 'honor crimes';<sup>10</sup> consider ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).<sup>11</sup>
- d) Grant detainees timely, regular and adequate access to relatives and legal counsel.
- e) Maintain efforts aimed at ensuring prompt access to judicial officials for suspects held in pre-trial detention, including those held under the Baghdad Security Plan; examine additional measures aimed at ensuring access to investigative judges and other judicial personnel beyond initial referral and on a regular basis, to enable speedy resolution of cases; ensure that detainees are promptly released unless charged with a cognizable offence and referred to trial.
- f) Address urgently the issue of abuse of detainees, including juveniles; law enforcement personnel and detaining officials known or suspected of having tortured or ill-treated detainees in their custody should not enjoy immunity from prosecution; credible allegations of detainee abuse should be promptly and thoroughly investigated and the perpetrators brought to justice; the findings of such investigations should be made public.

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<sup>8</sup> SC Resolution 1770 was passed on 10 August 2007, replacing SC Resolution 1546 (2004).

<sup>9</sup> Iraq ratified the ICCPR in 1971, and all successive governments are bound by this treaty obligation.

<sup>10</sup> In this regard, the Minister of State for Women's Affairs submitted proposals for the amendment of articles 41(a) and 409 of the Penal Code. At the end of December the matter remained pending.

<sup>11</sup> The Optional Protocol to CEDAW entered into force on 22 December 2000. By ratifying the Optional Protocol, a State recognizes the competence of the Committee on the Elimination of Discrimination against Women -- the body that monitors States parties' compliance with the Convention -- to receive and consider complaints from individuals or groups within its jurisdiction.

- g) Implement policies aimed at achieving the proper vetting and training of law enforcement personnel; establish effective monitoring and accountability mechanisms to ensure oversight of the conduct of security forces personnel.
- h) Maintain efforts to alleviate overcrowding in prisons and detention facilities and to improve sanitation and hygiene conditions; in particular, institute urgent measures to examine conditions at juvenile detention facilities in respect of overcrowding and lack of adequate rehabilitation programs.
- i) Give consideration to establishing public reporting procedures by the Ministry of Human Rights on its activities on a regular basis, covering human rights developments and both interventions and achievements so that such reports serve as a protection tool.
- j) Review procedures before the criminal courts and adopt measures consistent with minimum standards for fair trial; adopt measures to ensure basic rights for defendants, including timely and adequate access to defense counsel, and continuity of representation by counsel at all stages of the proceedings; give consideration to implementing a moratorium on the death penalty pending a thorough review of legal proceedings followed at both pre-trial and trial stages.
- k) Cooperate with the KRG authorities and the MNF in resolving the cases of detainees in KRG custody who were allegedly arrested jointly by MNF or US military forces and Iraqi security forces, including the establishment of mechanisms to enable the transfer of detainees from KRG to central government authority as appropriate.

### **Recommendations to the Kurdistan Regional Government**

- a) Review current policies in respect of journalists and other medial professionals, particularly as regards the arrest and detention of those engaged in reporting on public interest issues; respond to individual cases raised by UNAMI, clarifying the legal basis and reasons for such arrests and ensuring that no person is held unless charged with a cognizable offence and referred to court; ensure that legislation regulating journalism is consistent with internationally accepted norms related to the right to freedom of expression.
- b) Sustain efforts and adopt effective measures to support vulnerable communities, including religious and ethnic minorities, through the allocation of additional resources to meet the needs of the large numbers of displaced persons from these communities; adopt measures to ensure that other vulnerable groups, including third country nationals, receive protection from the regional authorities.
- c) Ensure that incidents involving violence against women, including ‘honor crimes’, are promptly and thoroughly investigated and their perpetrators brought to justice; make clear, through public statements and criminal prosecutions, that these crimes will not be tolerated and will not go unpunished.
- d) Conduct independent, thorough and prompt reviews of cases of detainees held for prolonged period without charge or trial by the *Asayish* forces; the results of these reviews should be made public, as should data on the number of detainees held in *Asayish* custody; ensure that detainees are promptly released unless charged with a cognizable offence and referred to trial; no one should be held on suspicion of having committed crimes that did not constitute offences under the law at the time of their commission; ensure timely referral of detainees to investigative judges in accordance with Iraqi criminal procedure.
- e) Review the current practice of administrative detention and grant detainees the right to challenge the lawfulness of their detention; ensure prompt and regular access to relatives and defense counsel, and adopt measures to guarantee prompt and regular access to investigative judges and other judicial officials.
- f) Give consideration to implementing a moratorium on the death penalty pending a thorough review of legal proceedings followed at both pre-trial and trial stages.
- g) Allegations of torture should be promptly and thoroughly investigated, and criminal proceedings taken against officials found to have abused detainees in their custody; every

effort should be made to ensure that juvenile detainees are held at separate locations, and additional resources devoted to address the issue of overcrowding at detention facilities.

- h) Cooperate with the Government of Iraq and the MNF in resolving cases of detainees in KRG custody who were allegedly arrested jointly by MNF or US military forces and Iraqi security forces.

### **Recommendations to the Multinational Force – Iraq**

- a) Investigate thoroughly, promptly and impartially all credible allegations of unlawful killings by MNF military personnel, and take appropriate action against those found to have used excessive or indiscriminate force. The initiation of investigations into such incidents, as well as their findings, should be made public as appropriate.<sup>12</sup>
- b) Give consideration to implementing basic due process guarantees enshrined in international human rights law, notably the ICCPR, to detainees in MNF custody; take steps to improve detainees' access to defense counsel at all stages of the proceedings; permit defense counsel to represent their clients before administrative review boards; clarify the status of juvenile detainees who have spent over one year in internment; review criminal cases which were dismissed at trial with a view to releasing these detainees promptly; refrain from transferring prisoners under sentence of death to the Iraqi authorities pending a thorough review of legal proceedings followed in their cases at trial.
- c) Cooperate with the Government of Iraq and the KRG authorities in resolving cases of detainees in KRG custody who were allegedly arrested jointly by MNF or US military forces and Iraqi security forces.
- d) Give consideration to granting access to MNF detention facilities to independent human rights monitors engaged in public reporting, including UNAMI; this should include regular, unimpeded and confidential access to detainees.
- e) The US authorities should investigate all credible reports of deaths caused by privately hired contractors, and establish effective mechanisms for holding them accountable where the circumstances surrounding the killings show no justifiable cause; take steps to ensure that offences committed in Iraq by all categories of US contractor employees are subject to prosecution under the law.

## **Protection of Human Rights**

### **Extrajudicial executions, targeted and indiscriminate killings**

14. During the third quarter of 2007, general violence, targeted assassinations and indiscriminate killings continued to be reported in many parts of the country, prompting Iraqis to abandon their homes and seek shelter with extended families or in neighboring countries. Major cities including Baghdad, Basra and Mosul, as well as Ba'quba, Falluja and Kirkuk, remained affected. The precise impact of violence on the civilian population remained difficult to measure due to inability to access to affected areas and a dearth of reliable data from governmental and other sources.

15. In September, the Commander of MNF forces in Iraq, General David Petraeus, announced success in the reduction of security incidents "since the start of the surge of offensive operations in mid-June". In his report to the US Congress, he noted that "[c]ivilian deaths of all categories, less natural causes, have also declined considerably, by over 45% Iraq-wide since the height of the

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<sup>12</sup> UNAMI recognizes that certain information cannot be released for operational or security reasons, or for reasons related to the rights of suspects or victims.

sectarian violence in December”.<sup>13</sup> UNAMI has no independently verifiable statistical data on violent deaths, but notes that in the fourth quarter of 2007, the number of reported incidents involving armed attacks or bombings on civilian targets decreased markedly in a number of locations in the country, including Baghdad. On 18 November, the US military announced at a press conference in Baghdad that bombings and other attacks had dropped by 55% nationwide since June citing, among other data, 323 violent attacks in Baghdad governorate in October as compared with 1,134 such attacks in June.<sup>14</sup> The Iraqi Government did not issue its own mortality figures on a systematic basis.<sup>15</sup>

16. Despite improvements in the general security situation, armed groups carried out deliberate attacks on civilians through suicide bombings, abductions and extrajudicial executions while making no distinction between civilians and combatants. Such systematic or widespread attacks against a civilian population are tantamount to crimes against humanity and violate the laws of war, and their perpetrators should be prosecuted. During the reporting period, massive car bombings and suicide attacks deliberately targeting civilians were perpetrated, with devastating consequences. Numerous other attacks were also perpetrated with impunity by armed groups targeting government officials, religious figures, state employees, law enforcement personnel and a number of professional groups including academics, journalists, lawyers and judges.<sup>16</sup> Additionally, religious and ethnic minorities and other vulnerable groups were deliberately targeted, as were women including in cases involving so-called ‘honor crimes’.<sup>17</sup> Numerous other incidents involving intimidation, threats, abduction of individuals from their homes, torture and killing took place in Baghdad, Mosul, Basra, Kirkuk and elsewhere. Some of the victims were taken in broad daylight from their homes, or forced out of their cars at militia-manned check points and later killed and mutilated. The violence drove thousands of people from their homes, joining the ranks of the displaced or the refugee community abroad.<sup>18</sup>

17. Some of the deadliest attacks witnessed since March 2003 occurred between July and September, targeting civilian areas and resulting in a high death toll in Baghdad, Kirkuk, Salahuddin, Nineveh and Diyala. On 7 July, a suicide truck bomb detonated in a market place in Amerli, near Tuz Khormatu, in which an estimated 160 people were killed. On 16 July, some 85 people were killed and scores injured in three apparently coordinated bombings in Kirkuk governorate: a truck laden with explosives detonated near the Patriotic Union of Kurdistan headquarters in Tuz Khormatu, killing some 75 civilians and wounding 40 others, while two car bomb explosions in Kirkuk city, one of them targeting a market place, killed 12 civilians and injured 68 others. On 26 July, at least 25 people were killed by a truck bomb in a market place in the al-Karrada district of Baghdad. On 1 August, up to 50 people died and 60 others wounded when a suicide fuel tanker exploded in Baghdad’s al-Mansour district, and on the same day, a car bomb near al-Hurriyya Square in al-Karrada district killed some 20 civilians and wounded 40 others. One of the largest suicide bomb attacks took place on the outskirts of Sinjar on 14 August when suicide trucks carrying large amounts of explosives were used to target the Yazidi community’s residential areas in two villages. Initial casualty reports put the number of those killed at about 175, with over 200 injured. Some of the wounded were transferred by MNF troops to hospitals in Duhok and Mosul. By 19 August, the official death toll had risen to 350 dead, with an additional 80-100 people missing and some 400 others wounded, making this the deadliest attack since March 2003. UNHCR estimated that 525 houses were destroyed. On 24 September, an attack on a

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<sup>13</sup> Report to Congress on the Situation in Iraq, by General David H. Petraeus, Commander of the Multi-National Force – Iraq, delivered on 10 and 11 September 2007.

<sup>14</sup> The data released covered attacks using car bombs, roadside bombs, mines, mortars, rockets, surface-to-air missiles and small arms. See Cara Buckley and Michael R. Gordon, “U.S. Says Attacks in Iraq Fell to the Level of Feb. 2006”, *New York Times*, 19 November, 2007; and Tina Susman, “U.S. Prods Iraq to Act During Drop in Violence”, *Los Angeles Times*, 20 November, 2007.

<sup>15</sup> During the reporting period, government officials intermittently announced casualty figures. In July the media reported that no mortality data was made available for that month. In early September, a Ministry of Interior spokesperson announced that 1,011 civilians were killed in violent attacks the previous month.

<sup>16</sup> See sections entitled ‘Targeted killing of professional groups, government employees and religious figures’ and ‘Freedom of expression and the targeting of media workers’.

<sup>17</sup> See sections entitled ‘Situation of minorities and other groups’, and ‘Situation of women’.

<sup>18</sup> See section entitled ‘Displacement of the civilian population’.

reconciliation meeting between local Sunni and Shi'a groups in Ba'quba killed 26 people, including the Diyala chief of police.

18. While the level of violence decreased gradually during the last three months of 2007, deliberate attacks on civilian targets by armed groups continued to be perpetrated in various locations throughout Iraq, with numerous attacks reported though not on the scale witnessed in the third quarter. Among the incidents recorded were the following: four civilians killed and 10 others wounded, including women and children, when a car bomb detonated near a police checkpoint in the Khalis area north of Baghdad on 2 October; four civilians killed and seven wounded when a roadside bomb detonated near a gas station in the al-Za'faraniyya district of Baghdad on 4 October; 22 civilians killed and 16 others wounded in a car bomb attack in the Beji area on 9 October; seven civilians killed and 35 others wounded when a car bomb, targeting the city's police chief, detonated in Baghdad's al-Shorja district on 11 October; 17 civilians killed and 27 others wounded in a car bomb explosion targeting police headquarters in Hay al-Boshman in Samarra; ten civilians killed and 18 others wounded in a car bomb explosion in the al-Kadhimiyya district of Baghdad on 14 October; four tribal leaders killed and three others wounded when a suicide bomber detonated explosives at a meeting of the Diyala Rescue Council in Khalis on 9 November; four civilians killed and 16 others wounded when a roadside bomb detonated near a minibus in the al-Borsa area of Mosul on 11 November; nine civilians killed and 20 others wounded in a car bomb explosion in al-Hurriyya Square in Baghdad's al-Karrada district on 17 November; six civilians killed and 15 others wounded in a car bomb explosion in al-Ramadi city center; and five civilians killed and 13 others wounded in a car bomb explosion targeting a market in a Christian neighborhood in Baghdad on 12 December.

19. The violence claimed the lives of many children, their immediate families and caregivers. An indiscriminate attack with the largest number of casualties among children was recorded on 6 August when 27 civilians were killed, among them 12 children, and 30 others wounded, when a truck bomb detonated in a residential neighborhood in al-Qebbek area of Tala'far in Nineveh governorate. Scores of children have been killed or maimed in schools, which were frequently targeted by various armed groups. On 17 September, three elementary schools were attacked by gunmen in Imam al-Mansour, al-Katbiya and Balad Ruz areas. Other attacks in which children were reported to have been killed included the following: five civilians, including two children, killed in a mortar attack in the town of Khalis on 18 August; four women and three children killed in a roadside explosion near Baghdad's Technology University on 8 October; a child aged 10 and three other civilians killed in a bomb explosion in a residential area in Tuz Khormatu on 9 October; six civilians killed and nine others wounded, including young students, when a roadside bomb planted near the playground of al-Marid al-Arabi School in Baghdad detonated on 11 October; six civilians killed and 20 others wounded, including women and children, in a car bomb explosion near al-Zawra' Park in Baghdad on 16 October; and three children killed and 10 other civilians wounded in a mortar attack on a residential area in Balad Ruz on 9 November. The ongoing violence produced a low turnout of students, including young children, in a number of Baghdad neighborhoods when schools re-opened for the new academic year on 30 September.

20. During the reporting period, at least three separate attacks on civilian hospitals were recorded, including a mortar attack on al-Sadr Hospital in Basra on 24 July, which killed three civilians, and another attack by unknown gunmen on a hospital in western Baghdad on 22 September, with no casualties reported. On 16 September, unknown armed men hijacked an ambulance carrying eight passengers in Ba'quba in Diyala governorate; their fate remained unknown.<sup>19</sup>

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<sup>19</sup> Customary international humanitarian law prohibits direct attacks against objects that are by their nature civilian, including hospitals, unless they are being used for military purposes.

## Targeted killing of professional groups, government employees and religious figures

21. Despite the lower incidence of violent attacks in the latter half of 2007, particularly in during the last quarter, targeted attacks against professional groups, officials and others by insurgents and armed militia continued to be perpetrated in many parts of the country. Among the victims during the reporting period were members of the legal, medical and academic professions, media workers, government employees, religious figures, and employees of state institutions. While some were killed in the context of the general ongoing violence, many others were deliberately targeted for assassination or were abducted and subsequently killed. Scores of others were wounded in attacks or escaped attempts on their lives.

22. Between July and December, at least nine lawyers and three judges were killed by unknown gunmen or members of armed militia. They included Zaidan al-Shummari, shot dead on 23 July by gunmen in a vehicle as he left the al-Hashimiyya courthouse in Babel, and Ra'ad Rashid Fayyad al-Dulaimi, whose body was recovered on 8 August in the al-Wardiyya area of al-Mada'en following his earlier abduction by unknown gunmen. Among the judges killed were Hamdi Habib al-Jibouri, gunned down on 17 July in Diyala, and Lu'ay Watut, killed in a suicide car bomb attack on 15 August in al-Hilla. Four university professors were also killed, among them Adel Abdel Hadi, philosophy professor at al-Kufa University, gunned down in al-Najaf as he left his home on 28 October, and Sabri Abdul-Jabbar Mohammed, whose body was recovered on 1 November in the streets of Kirkuk following his abduction a week earlier. A doctor and director of al-Rashad Hospital for Mental Illnesses, Muhammed al-'Uqaili, was gunned down in the Baladiyyat area of Baghdad on 11 December.

23. A number of people associated with several state institutions, including independent commissions, were similarly targeted. On 20 September, Mustafa Kadhim Abbud al-Madamkha, a judge sitting on the cassation panel of the Commission for Resolution of Real Property Disputes,<sup>20</sup> was killed by unknown gunmen in central Baghdad. On 17 October, Mohammed Abdul-Aziz Mohammed, an investigator with the Commission on Public Integrity,<sup>21</sup> was gunned down on the streets of Kirkuk city. Two members of the Independent High Election Commission in Basra were also targeted: Ali Sabih Hassan, who was abducted and killed on 10 October, and Usama Khalil Ibrahim, head of the Basra office media department, was killed on 27 October following an attack on his home by unknown gunmen.<sup>22</sup>

24. Government employees and political and religious figures remained a prime target of attack by armed groups. Among them were two provincial governors: Khalil Jalil Hamza, governor of al-Qadisiya, and Muhammed Ali al-Hassani, governor of al-Muthanna, killed in roadside bombs on 12 and 20 August respectively. On 26 September, the body of the *mukhtar* of al-Jadida quarter in Mosul, Mohammed Zaki al-Hamadani, was recovered in a marketplace in the city, three days after his abduction. Others targeted include Mahmoud Ibrahim, member of Mosul City Council, killed in an ambush on his convoy on 30 September; Ahmad Khalil al-Mashhadani, advisor to Adnan al-Dulaimi,<sup>23</sup> gunned down in the al-'Amiriyya district of Baghdad on 23 October; and Qutaiba Badruddin, an advisor at the Ministry of Finance, whose body was found in a vehicle in the Hay al-Jami'a district of Baghdad on 4 November. Four people associated with Grand Ayatollah Ali al-Sistani

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<sup>20</sup> The Commission was established in March 2006, replacing the former Iraqi Property Claims Commission established under the Coalition Provisional Authority (CPA).

<sup>21</sup> The Commission on Public Integrity was established pursuant to CPA Order 55 of 27 January 2004.

<sup>22</sup> In February 2007, the Council of Representatives adopted the Law on the Independent High Election Commission (IHEC), establishing Iraq's permanent electoral body. Nine Commissioners were selected and appointed in May 2007, responsible for organizing and supervising all electoral events in Iraq. Under Security Council Resolution 1770 (2007), UNAMI provides advice and technical assistance to IHEC and the Iraqi Government on electoral matters. According to IHEC's records, 60 electoral workers have been killed and 57 others injured between December 2004 and October 2007.

<sup>23</sup> Secretary General of the Conference of the People of Iraq (*Mu'tamar Ahl al-'Iraq*).

were targeted in September: the Grand Ayatollah's deputy, Hussein al-Husseini, gunned down outside his home in Basra on 11 September; Shaikh Ahmad Abdul-Karim Bashir and Shaikh Ahmad al-Janabi, aides to the Grand Ayatollah who were gunned down on 20 September in al-Diwaniyya and Basra respectively; and Shaikh Abdullah Falak, a financial adviser at the Grand Ayatollah's office, stabbed to death by unknown assailants in al-Najaf on 22 September. The head of the Shi'a Waqf, Ibrahim Abdul-Karim, was killed when gunmen attacked his vehicle in the Hay al-Mashtal area of Baghdad on 9 October.

### **Civilian deaths involving private security contractors**

25. During the reporting period, at least five incidents were recorded in which action by private security contractors resulted in the death of civilians. On 16 September, employees of the private security firm Blackwater were involved in a shooting on al-Nisoor Square in Baghdad's al-Mansour district, which left 17 civilians dead.<sup>24</sup> Although Blackwater initially claimed that its four-vehicle convoy was attacked by armed insurgents, subsequent testimonies as well as a preliminary report issued by Iraq's Ministry of Interior indicated that the Blackwater employees began shooting first and then fired indiscriminately. Initially two civilians in a car which approached the Blackwater convoy were reportedly shot, with the shooting then escalating rapidly. A second shooting by the contractors reportedly occurred some 200 meters from the first scene several minutes later, as their convoy left al-Nisoor Square. At least a dozen persons, none of them Blackwater personnel, were injured.<sup>25</sup>

26. In October, the Iraqi Government requested the US authorities in Iraq to phase out their use of Blackwater within six months, and submitted draft legislation to the Council of Representatives aimed at ending immunity from Iraqi criminal prosecution for foreign contractors granted by the Coalition Provisional Authority (CPA) in 2004.<sup>26</sup> The status of the draft legislation remained unclear by late December. At least four separate investigations were initiated, including by a three-member Iraqi Government panel headed by the Minister of Defense, the US State Department,<sup>27</sup> the US Department of Defense,<sup>28</sup> and a joint US-Iraqi commission, which first met on 7 October. On 7 October, the Iraqi Government announced that its own investigation had determined that Blackwater contractors had fired in multiple directions and committed "deliberate murder".<sup>29</sup> Following interviews with witnesses and examination of forensic evidence, the provisional results of an investigation conducted by the Federal Bureau of Investigation (FBI) reportedly showed that 14 of the 17 killings

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<sup>24</sup> Blackwater operates in Iraq under a US Department of State contract and provides security services to US diplomats and officials.

<sup>25</sup> On 25 September 2007 the UN Working Group on the use of mercenaries expressed its concern over the "indiscriminate shooting" and "welcome[d] the investigations underway to clarify the facts." It drew "the attention of Member States to the inherent dangers of privatization [...] of the use of violence, one of the primary functions representing the sovereignty of the State" It "call[ed] upon States to ensure that the military assistance, consultancy and security services offered by private companies at the international level neither impede the enjoyment of nor violate human rights" and "urge[d] Governments to avoid granting immunity to these companies and their personnel" (Working Group press release, 25 September 2007). See also para. 69 of Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, dated 24 August 2007 and presented to the UN General Assembly in November 2007 (A/62/301).

<sup>26</sup> In accordance with CPA/ORD/27 June 2004/17 (Revised), Status of the Coalition Provisional Authority, MNF-Iraq, Certain Missions and Personnel in Iraq, Section 4(3). See UNAMI Human Rights Report, 1 April-30 June 2007. US legislation under which such prosecution can be brought includes the 1996 War Crimes Act, the 1994 federal anti-torture statute and the 2000 Military Extraterritorial Jurisdiction Act (MEJA). In this context, there have been no prosecutions to date under the War Crimes Act and one successful prosecution under MEJA. US Department of Defense contractors are covered under MEJA, but it is unclear whether contractors unconnected to Department of Defense operations abroad are also covered.

<sup>27</sup> The State Department requested the Federal Bureau of Investigation (FBI) to take the lead in the investigation, but only after having interviewed the Blackwater employees and offering them a controversial limited immunity.

<sup>28</sup> On 25 September the US Deputy Secretary of Defense issued a memorandum to military commanders, instructing personnel to "ensure that relevant DoD [Department of Defense] policies and processes are being followed [by contractors]."

<sup>29</sup> "Blackwater Shootings 'Murder,' Iraq Says" (quoting "[t]he Iraqi prime minister's office"), *New York Times*, 8 October 2007.

were unjustified and that there was no evidence Blackwater had been fired upon.<sup>30</sup> On 5 December, the US Departments of State and Defense signed a Memorandum of Agreement “that improved synchronization between the US Embassy and MNF-I regarding rules for the use of force, movement coordination and control, and incident reporting and investigations. In addition, Embassy and MNF-I officials have strengthened working-level relationships with the Ministry of Interior to improve oversight and regulation of private security operations”.<sup>31</sup>

27. The al-Nisoor Square incident prompted the Iraqi authorities to re-examine several previous incidents in which private security contractors allegedly harmed or killed Iraqis or damaged Iraqi property.<sup>32</sup> Since 16 September, a number of other incidents have also been recorded. On 9 October, two women, Marou Awanis and Geneva Jalal, were killed by private contractors employed by Unity Resources Group who allegedly opened fire on their vehicle at the al-Masbah intersection in Baghdad’s al-Karrada district, then drove away from the scene.<sup>33</sup> On 18 October, a security company guarding a convoy opened fire on a taxi in Qara Hanjir, east of Kirkuk, injuring three persons, two of them women. A spokesperson for the company claimed that the passengers had ignored warnings to stop, including hand signals and a signal flare. On 10 November, Muhammed Khalil Khudair, a taxi driver, was allegedly shot and killed by a DynCorp International contractor in Baghdad’s al-Utaifiya neighborhood, who reportedly left the scene immediately after the incident. On 19 November, an 18-year-old woman, Ruba Taha, was shot in the foot in the district of al-Karrada in Baghdad by contractors employed by Almco, a Dubai-based company under contract to the US military.

### **Civilian deaths in the context of MNF military operations**

28. UNAMI remained concerned about civilian deaths that continued to be reported in the context of air strikes or raid and search operations carried out by MNF air and ground forces. A number of incidents were recorded between July and December involving MNF air strikes in which 123 civilian deaths were reported at various locations in Iraq, with the number of casualties dropping sharply by November. They included the following: 10 civilian deaths in al-Diwaniya on 2 July; four civilian deaths in the Hay al-Siha neighborhood in Mosul and four others south of Samarra on 11 July; five civilian deaths on 12 July following the bombing of a house in al-Diwaniya where suspected insurgents were said to be located; 15 civilian deaths in al-Mada’een south of Baghdad on 26 July; six civilian deaths in Hay al-Jubour in the al-Dulai’iya sub-district of Salahuddin governorate on 5 August; eight civilian deaths involving electricity workers resulting from an air strike on their minibus in Samarra on 10 August; 10 civilian deaths in Albu Abdi north of Ba’quba on 20 August; 10 civilian deaths in the al-Siha district of south Baghdad on 28 September; four civilian deaths involving a family of four on the Mosul-Haditha road near Beji on 18 October; between six and 11 civilian deaths, including several children, in Mukaishifa between Samarra and Tikrit on 23 October; and three civilian deaths in Baghdad’s al-Tarmiya neighborhood on 5 November. In one incident, Iraqi police announced that 14 civilians were killed when MNF forces targeted al-Washash, an area adjacent to Baghdad’s al-Mansur district, on 6 September. On 5 October, MNF air support destroyed two buildings in Khalis after gunmen said to belong to a Shi’a militia attacked MNF ground forces. While MNF officials reported the death of 25 militia fighters, an Iraqi army official stated that civilians, including seven children, had also died. On 11 October an MNF air and ground assault against suspected al-Qaeda

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<sup>30</sup> According to unnamed US Government officials who were familiar with the FBI investigation. The FBI reportedly admitted problems with collecting evidence, including the impossibility of reconstructing the scene of the shooting, examining all victims, or accessing certain statements of Blackwater staff (“F.B.I. Says Guards Killed 14 Iraqis Without Cause”, *New York Times*, 14 November 2007).

<sup>31</sup> Letter from the United States Embassy in Baghdad to UNAMI, 13 March 2008.

<sup>32</sup> These incidents include the killing of a bodyguard of Iraq’s Vice-President by a Blackwater guard on 24 December 2006, and the killing of three Iraqi guards by Blackwater contractors shooting from the rooftop of the Ministry of Justice building on 7 February 2007. A third incident occurred in al-Hilla, where Hussein Saleh Rabi’, aged 75, was killed on 13 August, allegedly by Blackwater contractors.

<sup>33</sup> Unity Resources Group, a military and security firm, is registered in Dubai and run by former Australian army personnel. It provides security services to the USAID contractor RTI International.

leaders killed 19 insurgents as well as six women and nine children in the Lake Tharthar region north of al-Ramadi. A US official announced that an investigation into this incident had begun and that the military regretted the loss of innocent lives, but blamed insurgents for putting civilians in danger.

29. In other incidents, at least 37 civilian deaths were reported during raid and search operations by MNF ground forces, in some cases conducted jointly with Iraqi Security Forces. They included the following: three civilian deaths when MNF forces opened fire on a vehicle suspected of carrying insurgents near al-Habbaniya on 1 September; seven civilian deaths, including a woman and a child, as well as 12 insurgents during an MNF raid on a house in al-Iskandariya on 22 September; three civilian deaths, all relatives of a tribal sheikh, in east Tikrit on 25 September; three civilian deaths near a checkpoint in the al-Musayyib region in Babel Governorate on 4 October; three civilian deaths, including two children, on a road along the Ishaqi river in Yathrib district near Balad on 1 November; two civilian deaths in al-Samawa in al-Muthanna governorate on 18 November, for which the US military apologized; four civilian death, all employees of the al-Rasheed Bank, who were travelling in a staff minibus in the al-Sha'ab neighborhood of Baghdad on 27 November, and whose vehicle allegedly drove along a street off-limits to civilian traffic and failed to stop at a checkpoint; and two civilian deaths when the occupants of a vehicle allegedly failed to stop despite warning shots north of Mosul on 31 December.

30. UNAMI raises with the MNF authorities any such incident where the available information gives rise to concern with regard to the possible use of excessive force and violation of the principle of proportionality.<sup>34</sup> In a letter to UNAMI in October, the US Embassy noted that “MNF-I already investigates all allegations of Law of War violations, including unlawful killings. While not all investigations are released in their entirety, for operational security and other reasons, most are released in some form”.<sup>35</sup> UNAMI believes that the results of such investigations should be widely disseminated and given prominence; current practice is limited to occasional public statements with respect to certain serious incidents. The US Embassy also stated that “While MNF-I agrees that, when possible, military objectives should not be located in areas densely populated by civilians, we request that UNAMI recognize that this problem flows directly from what the insurgency is doing, not from actions taken by MNF-I. MNF-I would welcome a statement from UNAMI condemning the insurgents for effectively creating involuntary human shields”.<sup>36</sup> International humanitarian law requires all parties to the conflict to take all feasible precautions to minimize harm to civilians. UNAMI notes that the failure to do so is separate from the more serious violation of human shielding, which involves the intentional rather than “effective” use of civilians in order to deter attacks from enemy combatants and is a war crime.<sup>37</sup> UNAMI unequivocally condemns the practice of human shielding, and would appreciate receiving additional information on incidents involving the intentional use of civilians as human shields by insurgents and other groups, including where civilians were prevented from leaving areas of combat.

31. A number of US soldiers were subject to court-martial proceedings in the US on suspicion of having committed crimes in five separate cases while stationed in Iraq between 2005 and 2007.<sup>38</sup> In one case which attracted significant media attention when it came to light in March 2006,<sup>39</sup> 24 Iraqi civilians, including women and children, were killed by US soldiers in the town of Haditha in November 2005. According to a decision by the Marine Corps, none of the soldiers involved in the Haditha killings will be charged with murder. By August, charges were dismissed against four soldiers

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<sup>34</sup> Several cases were raised during the previous reporting period, to which UNAMI has not received a response to date (UNAMI letters to the MNF Chief of Staff, dated 11 May and 28 June 2007).

<sup>35</sup> Letter from the US Embassy in Baghdad to UNAMI, 2 October 2007, sent in response to UNAMI’s Human Rights Report, 1 April-30 June 2007.

<sup>36</sup> *Ibid.*

<sup>37</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June, 1977, art. 51(7).

<sup>38</sup> These included premeditated murder, conspiracy to commit murder, kidnapping, planting false evidence and rape. UNAMI keeps records of such cases while not including their details in its Human Rights Report.

<sup>39</sup> Tim McGirk, “Collateral Damage or Civilian Massacre in Haditha?”, *Time Magazine*, 19 March 2006.

accused of involvement in the killings. Sgt. Frank Wuterich, the alleged ringleader of the Haditha killings, is yet to be tried, but had his charges reduced from unpremeditated murder to voluntary manslaughter on 31 December. On 19 October, Lance Cpl. Stephen Tatum was ordered to face court-martial for involuntary manslaughter in connection with the case, while Lt. Col. Jeffrey Chessani, a former Marine commander, was ordered to trial on the same day for failing to investigate the killings.

### **Situation of women**

32. Ongoing violence and general security conditions in Iraq continued to hamper efforts to research and reliably assess the situation of women, both in terms of gender-based violence and other violations. Efforts by UNAMI to track the numbers of those killed and injured in violent attacks against civilians by insurgents or other armed groups show that ongoing violence continues to claim the lives of many women as well as children. Some of the victims died as a result of indiscriminate targeting of civilians in locations such as crowded markets, educational establishments and other public places, others as a result of roadside explosive devices, while in some cases they were apparently targeted. During the reporting period, several women were also reportedly killed during military operations involving air raids.

33. While gender-based violence continued to be reported in many locations in Baghdad and other governorates including Basra and Diyala, UNAMI was unable to follow up on many of these reported cases given the limitations imposed by the security situation. In November and December, further reports emerged of scores of so-called ‘honor crimes’ being perpetrated with regularity in Basra by armed groups or militia. Basra police records on 44 of the victims killed in 2007 showed multiple gunshot wounds to various parts of the body.<sup>40</sup> Several were killed execution-style with a single shot to the back of the head or forehead. Two of the deaths were attributed to burns injuries and three others to strangulation. Two victims had severed limbs: in one case, the right leg had been severed, while in the other, all four limbs and the head of the victim had been severed. In eight cases, the victims were found blindfolded or with the hands tied behind the back or both, with lengths of rope or other material around the necks of the strangled victims. Other injuries observed in at least eight cases were attributed to torture prior to the killings, including severe beatings and mutilation of parts of the body. According to information received by UNAMI, the majority of the victims’ bodies were found by police or members of the public on the streets, in isolated rural areas or on river banks. In Basra city, a higher incidence of such cases emanated from poorer districts such as al-Hayyaniyya, al-Qibla, al-Muhandiseen, al-Tannuma, al-Jumhuriyya and al-Hussein. Notes were reportedly found next to some victims’ bodies, accusing them of adultery or of “un-Islamic” conduct, such as failure to follow certain dress codes or to veil appropriately. Several of these notes were allegedly ‘signed’ by groups operating under the banner of *al-Amr bil-Ma’ruf wal-Nahi ‘an al-Munkar* (The Propagation of Virtue and the Prevention of Vice), while others contained only references to orders having been issued to carry out the killings, reportedly by armed militia. Some family members were said to be afraid of claiming their bodies, for fear of further repercussions against them. At this writing, UNAMI was seeking further information on these and other cases, and on related criminal investigations and other measures being taken by the authorities.

34. Among the incidents involving the killing of women recorded by UNAMI in the last quarter of 2007 were the following: four women together with three children killed when a roadside bomb detonated near Baghdad’s Technology University on 8 October; one woman and two men killed, and ten other civilians including three women wounded, when a roadside bomb detonated near a minibus in Ba’quba on 22 October; a woman and child killed when mortar rounds landed on their home in Khalis on 2 November; and one woman killed and five other civilians killed in a suicide car bomb attack targeting KDP headquarters in the city of Mosul on 7 November. Incidents involving apparently targeted attacks against women included the following, all of them involving teachers or employees of

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<sup>40</sup> The records include photographs of the 44 women, 24 of whom were identified. Where indicated, the estimated ages of the victims ranged between 25 and 55.

educational establishments: the headmistress of a school in the al-Saidiyya district of Baghdad was killed following an attack by unknown gunmen who entered her office and shot her in the head on 3 November; another school headmistress was also wounded in the al-Saidiyya district after being shot in the leg on 3 November; a mathematics school teacher was killed by unknown gunmen in the al-Mansour district of Baghdad on 6 November; and a school headmistress was also shot dead by unknown assailants while leaving her home in the al-Kadhimiyya district of Baghdad on 14 November.

35. In the Region of Kurdistan, violations of women's right to life and liberty continued to be perpetrated during the reporting period, many of them classified as so-called 'honor crimes', as well as instances of domestic and communal violence such as forced marriages and domestic abuse. Linked to these crimes were attempted or actual suicides among women, apparently to escape or protest violence and oppression in the home or the wider community. Between July and September, UNAMI received information on seven honor-related crimes. A further 29 cases of suspicious deaths and injury involving women were reported in Erbil, Duhok and Sulaimaniya between October and December. In some cases, the women allegedly attempted suicide, typically by burning, to protest spousal abuse or after disputes with family members, while others were found shot dead. At this writing these cases were said to be under investigation by the police. However, both women's rights activists and victims expressed little faith in the ability of the judicial system to protect the lives and rights of abused women. Gender-based violence is also grossly under-reported or remains without investigation. Data on honor crimes provided by the KRG Minister of State for the Interior in September indicated that only 42 incidents involving 32 female victims were recorded in Erbil over a 15-year period between 1992 and 2007. All victims were shot dead or strangled by male relatives, resulting in 19 convictions; the remaining 23 cases were either closed for lack of evidence or were pending investigations. In Duhok, police investigated 14 honor killings and two suspicious suicides in 2006 and 2007. In five incidents, the victims were registered as having been killed by unknown persons and these cases were never investigated; in six other cases, the suspects could not be located. In Sulaimaniya, 14 honor crimes were reported between January and mid-July 2007. All the victims were female and were registered as having been killed for alleged adultery or other "moral and social" reasons. Twelve of them had been shot, one was set alight and another stabbed; five suspects had been arrested and the rest were at large.

36. Problems of under-reporting are also linked to the victims' reluctance to claim abuse or other violence against them. In cases involving burns, for example, few women are willing to file complaints because of fear of revelation of the underlying causes during any investigation which may ensue. This appears to be the case irrespective of whether the burns injuries were sustained from an attack or were self-inflicted. The prevalence of known incidents is nevertheless of serious concern. In September, UNAMI obtained data from the Emergency Hospital in Erbil showing that between January and August 2007, 249 burns cases involving women were admitted to this hospital alone. Problems of under-reporting are also exacerbated by the fact that the majority of violent crimes against women are committed in rural areas, where police presence and authority are weaker and tribal rules and traditional social mores prevail. These factors further hamper official investigations, and the lack of systematic accounting of these cases at police stations, hospitals and the courts result in comparatively few investigations and the suspects evading arrest.

37. In July and October, the KRG authorities established a department to combat violence against women within the Interior Ministry in Sulaimaniya and Erbil respectively, which registered some 190 cases by December.<sup>41</sup> According to the Erbil department, 149 burns cases involving 53 fatalities were recorded, as well as 63 cases of alleged honor killings, for Duhok and Erbil governorates in 2007. A further 218 claims were filed at police stations by women alleging abuse. According to additional data provided to UNAMI by the Ministry of State for the Interior, the Erbil Police Directorate registered 19 cases involving honor killings, 262 cases of domestic violence and 66

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<sup>41</sup> According to officials in Erbil, staff would be on call 24 hours a day and would act as a "rapid reaction force", while in Sulaimaniya, a hotline was set up for the public in coordination with NGOs, with plans to open a women's shelter with full-time counsellors.

cases of fatal burns in 2007.<sup>42</sup> Officials told UNAMI that members of the security forces and the Peshmerga who commit honor crimes would no longer enjoy immunity as they had done in the past, and that despite victims' reluctance to testify, the law permits investigators to proceed if there is sufficient independent evidence to suggest criminal culpability. The KRG authorities face serious challenges in lowering the rate of such crimes, however. To UNAMI's knowledge, the police continue to receive reports on honor crimes, domestic violence and suicide cases on a daily basis, reflecting increasing levels of violence against women. The inability or unwillingness on the part of victims to file a complaint, easy access to weapons, lack of gender awareness among the local population, poverty, and the role of local and tribal traditions, all served to further exacerbate the problems. According to the Minister of State for Interior Affairs, women are reluctant to report spousal or domestic abuse for fear of retributive violence, divorce or even murder. He added that further efforts were needed to enhance public awareness and to deal with social and religious components of gender-based violence, and that the KRG authorities had conducted activities and supported civil society organizations in this regard.<sup>43</sup>

38. UNAMI welcomes ongoing efforts by the Women's Committee of the Kurdistan National Assembly to gain support for draft legislation addressing women's rights, including gender-based violence as well as matters of personal status. Draft legislation on domestic violence proposes prohibiting underage and forced marriages, honor crimes, physical and other forms of violence, as well as the use of women in resolving tribal conflicts. It also provides for the creation of specialized courts and protection mechanisms for witnesses wishing to file complaints. Another draft law under consideration prohibits female genital mutilation, which to date has received little attention.<sup>44</sup> The Women's Committee has also recommended major amendments to the Personal Status Law addressing issues related to matrimonial entitlements, grounds for divorce, inheritance and social status.

### **Situation of minorities and other groups**

39. Ethnic and religious minorities in various parts of Iraq, including those living in disputed territories in the northern governorates, remained vulnerable to targeted attacks by armed militia operating under various Islamist banners as well as by other unknown groups. The situation of members of non-Iraqi communities living in Iraq also remained precarious, vulnerable either to attacks by armed groups or targeted in the context of military operations.

40. Incidents linked to Iraq's Yezidi minority living in the northern governorates continued to be reported. On 14 August, four days after their abduction by unknown persons, Kirkuk police found the bodies of two Yezidi men who had traveled from Ba'shiqa to Kirkuk to market olives. According to accounts received, they were bludgeoned to death with stones, and may have been part of a series of retaliatory incidents recorded in the aftermath of the April killing of a Yezidi girl, Du'aa Aswad Khalil.<sup>45</sup> Later that evening, three suicide trucks carrying large amounts of explosives targeted poor Yezidi residential areas al-Qahtaniya collective town and Auzer village in al-Jazeera collective town, located in the Sinjar district in Nineveh governorate. Five days later, the death toll released by MNF-I was 350 dead, between 80-100 missing and 400 wounded. The UN's own estimates placed the death toll at 310 and those wounded at 715. The force of the twin blasts destroyed more than 500 houses and damaged more than 2000, leaving hundreds homeless, 400 orphaned and 100 widowed, making this

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<sup>42</sup> In a report dated 13 March 2008, the Director of the Erbil department stated that more claims had been filed with the department since its establishment in October 2007 relative to the number of cases registered with police stations in Erbil during 2007. These claims included allegations of forced marriages and domestic violence.

<sup>43</sup> Letter from the Kurdistan Regional Government to UNAMI, 13 March 2008.

<sup>44</sup> This initiative was prompted by a 2006 research study conducted by a local NGO, which said that out of 3,665 women and girls polled in the region, 2,043 had been "circumcised" under conditions amounting to violence with detrimental consequences to the victim. An inter-ministerial committee was subsequently created to examine and respond to these findings, but apparently could not agree on whether to criminalize the practice or attempt to create awareness of its harmful consequences.

<sup>45</sup> See UNAMI Human Rights Report, 1 April-30 June 2007.

the deadliest single attack against a minority group since 2003.<sup>46</sup> To date there has been no claim of responsibility by any armed groups or militia, although the local authorities' investigations initially focused on insurgent elements linked to al-Qaeda.

41. Following this devastating attack on a peaceful community, Yezidi community leaders and civil society representatives reported the increasing desperation of a politically marginalized minority group caught between forced political affiliation and survival of its community.<sup>47</sup> The Yezidis have long reported repression by successive governments and forced assimilation into Arab and subsequently Kurdish communities. They claim institutional discrimination by local authorities, lack of employment and educational opportunities, inadequate humanitarian assistance and a deliberate policy of neglect that entrenches chronic poverty in many Yezidi villages. Many also said they were not given food rations cards distributed in Mosul, while university students studying in Mosul remained vulnerable to retaliatory attacks in the wake of the Du'aa Khalil case (see above) and the precarious security situation in the city. Yezidi community leaders expressed fears that the attacks against them signaled further erosion of their traditions and cultural identity, and urged the local authorities and the international community to assist in preserving their religious identity and in effecting economic progress within their communities.

42. During the reporting period, UNAMI received further information of the situation of the Shabak community in Iraq, involving forced displacements of hundreds of families and the targeting of their members by insurgent groups linked to al-Qaeda.<sup>48</sup> Representatives of the Shabak community reported that 771 families were displaced during 2007, principally from the city of Mosul to villages in Nineveh governorate, and 186 cases involving killings up to mid-October. They also reported attempts at forced assimilation by Kurdish officials in Nineveh governorate. According to information received from representatives of Iraq's Christian community, ongoing targeted attacks against their members in both Baghdad and Mosul resulted in 44 people killed during the last six months of 2007. In mid-September, the small Chechen community in Diyala governorate came under attack by armed militia. The village of al-Hamidiyya (known locally as the 'Chechen village') located south of al-Muqdadiyya, housed some 36 families, numbering over 150 individuals. Following armed clashes between Sunni and Shi'a tribes in nearby villages, in which al-Qaeda elements were reportedly involved, Iraqi armed forces entered al-Hamidiyya on 18 September ostensibly to protect the villagers. According to some of the villagers' accounts, Iraqi Army personnel did not intervene when militia members who arrived with them ransacked and pillaged the village, burning down houses and rounding up the villagers in the local schoolhouse. The following day, Iraqi armed forces transferred the villagers to the relative safety of al-Muqdadiyya, where some families remained while others fled to Kirkuk, Kalar, Ba'quba and Baghdad where they joined the ranks of the displaced. None have since been able to return to their village, which was rendered inhabitable.

43. UNAMI continued to monitor the situation of the Palestinian refugee community in Baghdad, estimated by UNHCR to number some 11,000 individuals in late 2007. Many fled towards the Jordanian or Syrian borders to escape ongoing violence and attacks against their community. By December, the number of those at al-Tanf Camp in the no-man's-land between Iraq and Syria had risen to 437, with over 1,600 others in al-Walid Camp, located in the desert on the border with Syria.<sup>49</sup> Conditions in both camps are harsh, particularly during the winter months. The refugees continue to receive assistance and protection from UNHCR and its partners, but attempts to secure third country approval for their resettlement remains fraught with difficulties.

44. UNAMI remained concerned about a group of 193 Kurds of Iranian origin living in dire conditions in the no-man's-land between Iraq and Jordan, some of them having been displaced since

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<sup>46</sup> Statistics compiled by the Office of the Humanitarian Coordinator, UNAMI.

<sup>47</sup> Many of these views were expressed during a conference held by UNAMI with leaders and members of the Yezidi community on 30 August.

<sup>48</sup> According to Shabak NGO sources, an estimated 2,306 families have been displaced as a result of such attacks since April 2003. UNAMI was not in a position to independently confirm these figures.

<sup>49</sup> In late June, Palestinian refugees at al-Tanf numbered 389 and those at al-Walid were 1,079.

mid-2003 after having fled Tash Garrison in al-Anbar governorate where they had lived since 1982. Assisted by UNHCR with essential relief items, they remained trapped with little prospect of third country resettlement. In November, UNAMI visited another group of 59 people who had reached the Iraq-Jordan border in August and September. Most were Iranian nationals belonging to five or six tribes originally from the province of Ahvaz in south west Iran, who had been funded and armed under the former Saddam Hussein regime. Most had married Iraqi women, some of whom were with them at the border location. They told UNAMI they had fled several places within Iraq after allegedly being targeted and attacked by elements of the Badr Organization. UNAMI also assessed periodically the situation of the estimated 3,300 members of the People's Mojahedin Organization of Iran (PMOI) residing in Ashraf Camp in Diyala governorate, in particular with regard to any risks faced by individual members of non-voluntary repatriation to their country of origin in violation of the principle of *non-refoulement*. The status of individual members of the group as protected persons under the Fourth Geneva Convention, a determination made in June 2004 by the then Coalition Forces, remained unchanged. UNAMI also monitored their situation in terms of humanitarian needs, with residents citing increasing difficulties in ensuring access to adequate supplies of essential items.<sup>50</sup> In late December, UNAMI was also investigating the situation of some 96 former PMOI members who left the separate but nearby Ashraf Refugee Camp, set up by MNF forces to house those who opted to renounce their membership and leave the organization.<sup>51</sup>

### **Freedom of expression and the targeting of media workers**

45. Journalists and media workers continued to be abducted, killed or wounded by armed groups and other assailants in different parts of the country, including Baghdad and Mosul, some of them for reasons related to their profession. On 14 October, *Washington Post* journalist Salih Saif Aldin was killed at close range with a single gunshot to the head while on assignment photographing burned homes in Baghdad's al-Saidiyya district.<sup>52</sup> At least eight other journalists were killed between July and October. Among them were Muhammad Hilal and Sarmad Hamdi with the television station Baghdad TV, whose bodies were found on 4 July following their abduction a month earlier by unknown gunmen; Ali Wattan with the television station al-Samawa TV, gunned down by unknown gunmen on 6 July; Amer Malallah al-Murshidi with the satellite channel al-Musiliyya, killed by unknown gunmen in Mosul on 3 July, allegedly having earlier received threatening telephone calls as warnings; Muhannad Ghanim Ahmad with the Dar al-Salam Radio, gunned down in Mosul on 20 September; Jawad Sa'doun al-Da'mi with the television station al-Baghdadiya, shot dead in his vehicle in the al-Qadisiyya district of Baghdad on 23 September; Ayad Tariq al Tikriti with the newspaper al-Watan, killed when gunmen attacked the convoy of the newspaper's chief editor near the village of al-Houd in Tikrit on 14 October; and Shihab Muhammad al-Hiti with a local weekly newspaper, whose body was found two days following his abduction in the Hay al-Jami'a district of Baghdad on 27 October. An interpreter with the US television network CBS News, Abbas Lafta, was found dead on 25 August, five days after being abducted.<sup>53</sup>

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<sup>50</sup> These were said to include, at various times, fuel supplies, certain medications and foodstuffs, water purification materials and other goods. Some of these difficulties emerged as a result of deteriorating security conditions in Diyala governorate, while others were linked to the cancellation of previous agreements with relevant ministries which had facilitated the supply of essential goods at subsidized prices.

<sup>51</sup> Most of the estimated 200 individuals in the ARC were recognized as refugees by UNHCR, which has been seeking to secure third country settlement for them. Many had pressed the MNF to be permitted to leave, given that no durable solution had been found for them over several years. In coordination with the MNF, the group received *laissez-passer* travel documents issued by the Government of Iraq, valid until 10 January 2008 for one-way travel to Syria, Jordan, Turkey, Iran, Kuwait and Azerbaijan. Eleven were reportedly refused entry to Turkey and were handed over to the KRG authorities, who detained them briefly.

<sup>52</sup> Partlow, Joshua, and Paley, Amit, "Reporter For Post Is Fatally Shot In Baghdad", *Washington Post*, 15 October, 2007.

<sup>53</sup> During the reporting period, several other journalists were also abducted and later released, or were attacked by gunmen but survived.

46. In the Kurdistan Region, UNAMI continued to monitor and follow up on cases involving the arrest of journalists, apparently linked to articles they had published in regional newspapers on issues of public interest and other subjects. On 11 July, *Hawlati* reporter Rebaz Ahmed was detained by Sulaimaniya police, allegedly because of an article he had written on corruption in the city council.<sup>54</sup> On 29 July, journalists Hashim Zebari and Mahdi Gaay were arrested and later released by *Asayish* Duhok after publishing articles in *Hawlati* and *Regay Kurdistan* criticizing the Kurdish authorities and the *Asayish* for restricting freedom of expression. On 19 September, police arrested *Hawlati* editor Tariq Fatih in Sulaimaniya, who was initially released on bail and re-arrested on 7 October. He had published a complaint by a citizen against a company owned by the brother of a KRG official. On 1 Oct, Askandar Hamad Amin, a journalist with the newspaper *Jamawer*, was arrested in Qala Diza district in Erbil after publishing an article on an alleged abduction. On 28 October, Muhammed Saro Kahya, editor of the Turcoman affairs magazine *al-Ikha'*, was said to have been arrested by *Asayish* personnel but his current whereabouts remained unknown. UNAMI also remained concerned about the case of journalist Srood Mukarram Fatih, who has been in the custody of *Asayish* Erbil since April 2007 without access to legal counsel; he is reportedly suspected of involvement in terror-related offences.<sup>55</sup> The Committee to Protect Journalists had also reported a “rising number of physical attacks on the press” and “politicized lawsuits against outspoken newspapers” in Erbil and Sulaimaniya.<sup>56</sup> In a letter on 11 December, UNAMI raised its concerns about these and other cases with the Minister of Interior in Sulaimaniya, the Prime Minister’s Office and the Minister of Justice, requesting clarification of the legal basis for the journalists’ arrests and detention.

47. On 11 Dec, the Kurdistan National Assembly approved the Journalism Law amid protests and demonstrations by journalists and media workers in Erbil and Sulaimaniya. According to some parliamentarians, the law aims to organize journalism and defines the limits to the right to free expression.<sup>57</sup> In response to a request by the Kurdistan National Assembly, UNAMI provided written comments on the draft law on 3 December with the assistance of UNESCO, highlighting provisions requiring further review.<sup>58</sup> UNAMI was particularly concerned about a provision criminalizing activities of journalists and other media workers, and that the offences set out were too loosely defined. The draft law also empowers the authorities to suspend media outlets and imposes on journalists mandatory membership of the Kurdistan Journalists Syndicate, which many view as a non-independent association. On 17 December, the head of the Syndicate announced that President Masoud Barzani had given a commitment not to ratify the law and to refer it back to the Kurdistan National Assembly for further consideration.

### **Displacement of the civilian population**

48. According to UNHCR, as of December 2007, there were over 4.4 million displaced Iraqis around the world, including some 2.5 million inside Iraq and about 1.9 million in neighboring countries. Of these, an estimated 1.2 million persons were displaced inside Iraq since the attack on the al-Askari Shrine in Samarra’ in February 2006. The number of internally displaced persons (IDPs) is likely to be higher given that some IDPs failed or were unable to register with the Ministry of Displacement and Migration, the Iraqi Red Crescent or UN agencies through their local partners.

49. By late 2007, the governorates hosting the highest number of registered IDPs were Baghdad, with more than 365,000 displaced persons, and al-Anbar, Babel, Diyala, Nineveh, al-Najaf,

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<sup>54</sup> This was on the basis of Article 433 of Iraq’s Penal Code, which imposes a fine for the crime of defamation. In a letter dated 18 February 2008, the Minister of State for the Interior stated that an investigative judge had ordered the journalist’s release on bail pending the completion of the investigation, and that the case had been referred to the Halabja criminal court.

<sup>55</sup> See UNAMI Human Rights Report, 1 April-30 June 2007.

<sup>56</sup> [www.media.com](http://www.media.com), 14 Dec 07.

<sup>57</sup> UNAMI discussion with members of the Kurdistan National Assembly’s Legal and Cultural committees, Erbil, 13 November 2007.

<sup>58</sup> UNAMI organized two seminars in April and May 2007 to facilitate consultations between journalists and the KRG on the draft law.

Sulaimaniya and Wassit, each with 60,000 or more displaced persons. Many IDPs remained unregistered, particularly in the southern governorates.<sup>59</sup> Displacement continued in many governorates and reports from the field confirmed a number of secondary displacements of IDPs. Since 2006, IDPs have originated from central Iraq, in particular from Baghdad and Diyala which alone account for the places of origin of 130,000 families (approximately 780,000 individuals). During the last three months of 2007, the pattern remained essentially the same, with Baghdad, Diyala, Salahuddin, Babel as well as Kirkuk accounting for the main places of origin of IDPs generally.<sup>60</sup> Much of the displacement appeared to be a result of ongoing sectarian violence, and the IOM stated that 88% of IDPs registered with the organization reported to have been displaced for reasons of their identity.<sup>61</sup> However, the number of IDPs coming forward to register with the Ministry of Displacement and Migration has also increased, and the registration process has been improved by the ministry.

50. In August, new displacement was recorded in Sulaimaniya and Erbil governorates following attacks by Iranian Government cross-border military operations. Three persons were injured while some 400 families left their homes in Sinjar during the 14 August bombing. On 23 August, the Iranian armed forces shelled six villages in the district of Penjwin, close to the Iran-Iraq border. The inhabitants of two villages fled to the town of Sayyid Sadiq. On 28 August, Iranian forces were reported to have shelled around 15 villages in the Qandil area with heavy artillery. In November, shelling by the Turkish armed forces of areas located between Duhok and the border with Turkey also resulted in the displacement of tens of families, who were sheltered by local communities in Zakho.

51. Shelter, food, employment and access to basic services continued to be of primary concern for IDPs. Reports received by UNAMI indicate that many schools remained overcrowded, while attendance by some children was negatively affected by their families' poverty. Deterioration in the health situation among IDP communities and an increase in cases of malnutrition were also reported. In October, some IDPs moved from Sulaimaniya to al-Anbar, prompted by the outbreak of cholera in northern Iraq. Access to clean water and proper sanitation remained a priority need. Access to legal aid was also identified as a need, given that lack of documentation often hindered access to food, education, as well as safe and dignified living conditions.

52. Starting in July and August, restrictions on access to relatively safer governorates by IDPs fleeing their homes were imposed by the provincial authorities, including in Duhok, Erbil, Sulaimaniya, Kirkuk and Diyala,<sup>62</sup> which remained in place by December 2007. In two governorates, Basra and Diyala, freedom of movement remained restricted by armed militia. Limitations placed on physical access by IDPs are designed to restrict entry into some governorates, areas or cities, prompted security or political considerations, as well as for reasons related to saturation capacity. In the governorates of Duhok, Erbil and Sulaimaniya, the entry of certain IDP groups remained restricted, or barred altogether and, for those admitted, was further complicated by regulatory requirements.

53. In nine other governorates,<sup>63</sup> limitations on the registration of new IDPs were imposed, depriving them of access to basic services, including future integration grants, a monthly "salary" distributed by the Ministry of Displacement and Migration, access to fuel, access to food rations through the transfer of Public Distribution System (PDS) cards, and other measures. This problem was particularly acute in the southern governorates, where IDPs remained at risk of expulsion or faced undue hardship as they were only permitted to reside outside city centers with limited access to services, and faced possible rejection by local communities. Some of the restrictions on registration were imposed by branch offices of the Ministry of Displacement and Migration, requiring IDPs to secure sponsorship or limiting the ability to register to only those IDPs who were originally from the governorate in question. An executive order was issued in July instructing local authorities at

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<sup>59</sup> Cluster F Update November 2007.

<sup>60</sup> Cluster F Update November 2007.

<sup>61</sup> IOM Emergency Needs Assessment, December 2007.

<sup>62</sup> Cluster F Update November 2007.

<sup>63</sup> Al-Najaf, al-Muthanna, Basra, Dhi-Qar, Missan, al-Diwaniya, Babel, Karbala' and Wassit.

governorate level to lift all restrictions on the freedom of movement of IDPs that had not been endorsed by the IDP Committee within the Prime Minister's Office. However, by mid-December 2007 UNAMI had not received any information indicating that the order had been implemented in any of the relevant governorates.

54. According to data received from the Ministry of Displacement and Migration, an estimated 10,000 IDP families returned to Baghdad between February and November 2007. Of these, some 3,461 families were registered by the ministry upon verification of their return to Baghdad governorate, with each family receiving one million Iraqi dinars<sup>64</sup> in financial grants to assist their reintegration.<sup>65</sup> Indications of further returns of IDPs and refugees to their place of origin or residence were observed during the last quarter of 2007. Some of these returns reportedly took place under the protection of Iraqi Security Forces and other local community forces. At this writing, UNAMI was investigating reports indicating that a number of returnees were allegedly killed in attacks despite the protection provided. UNHCR highlighted the difficult conditions facing families upon their return to certain areas of Baghdad, particularly where their property remained occupied or was destroyed.<sup>66</sup> Anecdotal reports and assessments suggest that up to 70% of returnees were unable to return to their place of origin, but subsequently settled in a different area.<sup>67</sup> While not encouraging or promoting the return of refugees or IDPs at this time, the UN was taking steps to support the Iraqi authorities in meeting the assistance needs of those who opt to return and to prepare for organized population movements.

55. UNHCR and the IOM continued to provide support to the Ministry of Displacement and Migration to support IDPs and refugees. To support returning refugees, a Joint Government of Iraq-UN Rapid Response Plan for Immediate Assistance to Iraqi Returnees in Baghdad is under implementation. The UN and its partners remain committed to supporting the Government of Iraq in meeting the assistance and protection needs of refugees and IDPs who are in areas of refugee returns. A comprehensive plan is under development within the Consolidated Appeal Process to support all returnees.

## Rule of Law

### Detentions and internment

56. At the end of December, according to data provided to UNAMI by the Government of Iraq and the KRG authorities, the total number of detainees, security internees and sentenced prisoners across Iraq stood at 51,133.<sup>68</sup> The Ministry of Human Rights in Baghdad provided all data on inmates except those relating to the KRG region, which UNAMI received from the Ministry of Human Rights in Erbil. The number of detainees held by the KRG authorities does not, however, include all suspects held in the custody of the *Asayish* forces. The KRG Minister of Human Rights announced in September that he had not received this information from *Asayish* officials, who declined to release comprehensive figures.<sup>69</sup>

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<sup>64</sup> Approximately US \$800.

<sup>65</sup> Cluster F Update November 2007.

<sup>66</sup> UNHCR Rapid Return Assessment, 16 December 2007.

<sup>67</sup> Cluster F Update November 2007 and UNHCR quick survey on a sample of returnee population in Baghdad (30% is returning to their place of habitual residence, 70% is returning elsewhere).

<sup>68</sup> At the end of June 2007, the total number of detainees held across Iraq stood at 44,325, according to Ministry of Human Rights figures. The breakdown per detaining authority was as follows: MNF (21,107); Ministry of Justice (12,031); Ministry of Interior (5,110); Ministry of Defense (3,319); Ministry of Labour and Social Affairs (625); and the Kurdistan Regional Government (2,106).

<sup>69</sup> In its letter to UNAMI dated 13 March 2008, the KRG authorities stated that *Asayish* officials in Sulaimaniya had never failed to provide complete detainee figures to the Ministry of Human Rights. However, statistics provided by the Ministry of Human Rights shows that *Asayish* Sulaimaniya had not released detainee figures to the Ministry prior to June 2007.

Detaining Authority	July	August	September
MNF <sup>70</sup>	21,192	23,508	23,508
MOJ <sup>71</sup>	13,278	14,372	15,418
MOI	3,339	3,339	3,314
MOD	1,873	1,586	1,783
MOLSA	778	778	812
<b>Total excluding KRG</b>	<b>40,460</b>	<b>43,583</b>	<b>44,835</b>
Total in KRG region <sup>72</sup>	3016	3079	2014
<b>Total across Iraq</b>	<b>43,476</b>	<b>46,662</b>	<b>46,849</b>

Detaining Authority	October	November	December
MNF	25,378	25,525	24,661
MOJ	16,607	15,797	15,821
MOI	3,673	7,053	5,547
MOD	922	1,202	1,444
MOLSA	857	955	953
<b>Total excluding KRG</b>	<b>47,437</b>	<b>50,532</b>	<b>48,426</b>
Total in KRG region	2,556	2,090	2,707
<b>Total across Iraq</b>	<b>49,993</b>	<b>52,622</b>	<b>51,133</b>

### **Detentions under Government of Iraq authority**

57. The number of detainees in Iraqi Government custody rose during the reporting period, peaking in November at 25,007 as compared with 21,112 by the end of June. The increase of 3,895 was in large part attributable on ongoing arrests in the context of the Baghdad Security Plan. In December, however, the numbers fell marginally, mirroring a similar development with regard to the number of detainees held in MNF custody (see below). A draft General Amnesty Law was under discussion in late December, envisaged to cover certain categories of convicted prisoners and pre-trial detainees.

58. UNAMI continued to monitor and assess the situation of detainees, focusing on due process rights, treatment and conditions of detention. The ministries of Justice and Defense maintained their cooperation with UNAMI, including facilitating access to detention facilities and prisons and to information. In two positive developments in October, both the Ministry of Interior and the Ministry of Labor and Social Affairs granted UNAMI access to detention facilities under their authority, establishing a constructive dialogue with the Office of the Inspector General in particular. During the reporting period, UNAMI conducted eight visits to five detention facilities or prisons in Baghdad: the Ministry of Interior's 2<sup>nd</sup> National Police Brigade facility in al-Kadhimiyya; al-Rusafa Complex and al-Kadhimiyya Women's Prison under Ministry of Justice authority; the Ministry of Defense's 6<sup>th</sup>

<sup>70</sup> The monthly detainee statistics received by UNAMI from the Ministry of Human Rights only include detainees held at Camp Cropper and Camp Bucca. The MNF statistics received by UNAMI are slightly higher as they include detainees held at Division Holding Areas and other locations for initial processing.

<sup>71</sup> The Ministry of Justice data includes inmates held in Fort Suse, a facility located on the outskirts of Sulaimaniya in the region of Kurdistan but under the authority of the Ministry of Justice in Baghdad.

<sup>72</sup> The figures for the number of detainees in the KRG region are incomplete since they do not include detainees held at several facilities under *Asayish* authority. *Asayish* officials declined to release complete information both to UNAMI and to the KRG Ministry of Human Rights.

Division/3<sup>rd</sup> Brigade facility in the Abu Ghraib district; and al-Tobchi juveniles facility under the authority of the Ministry of Labor and Social Affairs.

59. The Iraqi authorities remained hard pressed to handle the growing detainee population, given ongoing arrests under the Baghdad Security Plan, the limited availability of space in a number of facilities to accommodate new intakes, and the challenges faced by the judicial authorities in ensuring timely review of detainees' cases. One positive development welcomed by UNAMI was the issuance on 20 September of Executive Order 207 by the Prime Minister's Office, containing directives for the handling of detainees from arrest through to investigation, trial and conviction or release, as well as treatment and conditions of detention. Based on recommendations made by the Higher Judicial Council, the key provisions include ensuring that both arrests and releases are effected on the basis of judicial orders; ensuring that suspects are represented by defense counsel when their statements are recorded and without the presence of investigating officers; increasing the numbers of police investigators and investigative judges; and activating the role of public prosecutors, both in providing oversight over legal proceedings followed in detainees' cases and monitoring conditions of detention, through regular visits to the courts and prisons. Another key provision was the reactivation of the Committee on Rule of Law and Detention Affairs, created three months earlier by order of the Prime Minister but which was poorly implemented.<sup>73</sup> The so-called '165 Committee' has since become a permanent body, meeting on a weekly or bi-weekly basis to ensure implementation of the provisions of Executive Order 207.<sup>74</sup>

60. UNAMI sought to monitor and assess the extent of compliance with these directives which, if properly implemented, would afford greater protection of due process rights for persons deprived of their liberty. The dearth of official statements or regular form of public reporting by the executive authorities in this regard makes the task of assessing the efficacy of such measures challenging. UNAMI believes that a greater degree of transparency concerning efforts being made by the authorities to regulate detention affairs would be beneficial, and would serve to foster a measure of confidence among the public at large. One area in which significant changes were achieved by the judicial authorities was in increasing the capacity of judicial personnel to process the cases of several thousand pre-trial detainees. The number of investigative committees was increased from 8 to 27 by the beginning of August, resulting in the review and release of some 1,500 detainees by 24 August.<sup>75</sup> Over a two-month period between late August and early October, the number of investigative judges and prosecutors based at the CCCI in al-Karkh increased to 25 and nine respectively, while at the CCCI in al-Rusafa the number of investigative judges rose to 19 together with eight prosecutors.<sup>76</sup> The number of judicial investigators at both locations also rose to 81 within the same period, and two female prosecutors were each assigned full-time to the juvenile facility in al-Tobchi and the Women's Prison in al-Kadhimiyya. According to data provided to UNAMI by the Higher Judicial Council, 7,457 detainees were released since the start of the Baghdad Security Plan in mid-February up to 1 November, with 4,052 others referred to trial. The number of trial judges was also increased.<sup>77</sup>

61. UNAMI welcomes the measures adopted to date to expedite case reviews and to generally make improvement in the handling of detainees. However, a sustained effort is required if durable results are to be achieved, as well as more effective monitoring of directives such as those provided for in Executive Order 207. During its visits to detention facilities and the courts, UNAMI noted that pre-trial detainees continued to experience inordinate delays in the resolution of their cases. While the waiting period for initial referral to an investigative judge has been reduced, thereafter many detainees

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<sup>73</sup> Executive Order No. 165 of 12 June 2007 (*Lujnat Tathbit Siyadat al-Qanun wa-Mutabaát Shu'un al-Ihtijaz*).

<sup>74</sup> The 165 Committee is headed by the Head of the Public Prosecution, and its members include senior representatives of the ministries of Interior, Defense, Justice, Labor and Social Affairs, Human Rights, Health, the Higher Judicial Council, the Office of the Prime Minister and the Office of the National Security Adviser.

<sup>75</sup> Pursuant to a judicial order issued on 2 August 2007 by the Higher Judicial Council, which provided this data to UNAMI. Each investigative committee consists of an investigative judge, a prosecutor, two judicial investigators and two police investigators.

<sup>76</sup> These changes increased the number of investigative judges at these locations from 27 to 44.

<sup>77</sup> See section entitled "Trial procedures and the death penalty".

remain unaware for several weeks or months whether or when they are to be released or referred to trial. This problem was acknowledged by the judicial authorities, who told UNAMI that the failure of police investigators to implement orders issued by investigative judges account in large part for these delays. Ministry of Interior officials told UNAMI that security conditions on the ground, together with the heavy caseload shouldered by too few investigating officers, are responsible for these delays. However, another major impediment noted by UNAMI remains the heavy reliance on statements made by 'secret informants' against suspects, and who repeatedly fail to obey summons to appear before investigative judges. This in turn leads to a tendency on the part of investigative judges to extend a suspect's period of detention until such time as the 'secret informant' is found, which may be weeks or months away. UNAMI learned through discussion with the judicial authorities that consideration was being given to imposing a ceiling on the number of times that extensions of detention can be granted for such reasons, and that if informants or other key witnesses cannot be located, the suspects must be ordered released.

62. The question of timely and adequate access to defense counsel also remains highly problematic. For the majority of detainees, the first meeting with a lawyer takes place just prior to the first appearance before an investigative judge, and most counsel is court-appointed. Aside from unfamiliarity with the case in question, the minimal or total absence of contact with counsel means that suspects remain unaware of their rights at various stages of the criminal proceedings. The opportunity to discuss the evidence, as well as options such as the submission of motions, exploring investigative measures, the introduction of exculpatory evidence - which may have a crucial impact on the development of the case particularly during the investigating phase - is not available to the vast majority of pre-trial detainees. One of the measures introduced by the judicial authorities in this regard in late October was the inclusion of defense counsel in the judicial committees which visit detention facilities designated under the Baghdad Security Plan to conduct case reviews. While this development is positive in that it fulfills the legal requirement that counsel be present during investigative hearings, substantively it does not assist suspects in securing effective representation. Another measure introduced at some detention facilities involves having lawyers present on site for those detainees who wish to engage them and to attend investigative hearings. At the 2<sup>nd</sup> National Police Brigade facility in al-Kadhimiyya, for example, UNAMI noted the Ministry of Interior's efforts to facilitate access to counsel by having twelve lawyers attend on a daily basis, provided through the Iraqi Bar Association. In practice, according to officials, only three or four of them attended on a regular basis, while at other facilities there were no mechanisms in place to receive visits by lawyers.

63. UNAMI noted and welcomed measures taken by the authorities to address problems of overcrowding at some detention facilities in Baghdad. At the al-Rusafa Complex, the temporary tented accommodation being erected with MNF assistance to house detainees arrested under the Baghdad Security Plan was completed; by late December six such compounds were operational, containing 60 tents holding on average 30 individuals. The additional capacity accelerated the transfer of suspects held in Ministry of Defense and Ministry of Interior custody pending their transfer to al-Rusafa. Serious overcrowding at the 2<sup>nd</sup> National Police Brigade facility in al-Khadimiyya led to the launch in August of "Operation Kadhimiyya Clean" by the Iraqi authorities with MNF assistance, involving the transfer of several hundred detainees to al-Rusafa. On a visit in November to the Ministry of Defense's 6<sup>th</sup> Division/3<sup>rd</sup> Brigade facility in Abu Ghraib, UNAMI found 18 detainees held there, as compared with 265 in July. Sanitation and hygiene conditions had vastly improved as a result. Other facilities remain acutely overcrowded, however. During two visits in October and November to the juvenile facility in al-Tobchi, UNAMI found that the facility was operating close to double its normal capacity.<sup>78</sup> In some of the cells, juveniles were sharing beds or taking turns to sleep on the floor without mattresses. The problem of overcrowding and its consequent hygiene problems were acknowledged by the Minister of Labor and Social Affairs, who told UNAMI that plans for expansion and refurbishment were slow, hampered by lack of adequate resources.

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<sup>78</sup> According to officials at al-Tobchi, the facility's maximum capacity was 204 but the number of juvenile inmates held there was closer to 400 at any given time.

64. UNAMI remains gravely concerned at continuing reports of the widespread and routine torture or ill-treatment of detainees, particularly those being held in pre-trial detention facilities, including police stations. Detainees interviewed by UNAMI at both Ministry of Interior and Ministry of Defense facilities regularly claimed to have been beaten or otherwise ill-treated, particularly upon arrest or while undergoing initial interrogation, most commonly to extract confessions from them. In some cases, the detainees bore injuries consistent with the torture alleged. At one Ministry of Defense facility, UNAMI examined several detainees with burns injuries on their buttocks, allegedly sustained after being forced to sit for prolonged periods (while awaiting their turn for interrogation) on the asphalted ground of the courtyard, which became very hot during the summer months. During the same visit which took place in July, UNAMI witnessed and intervened in one such case where a detainee was being forced to stand barefoot on very hot asphalt as punishment for infringing the facility's regulations, according to a detaining official. Particularly worrisome were allegations of ill-treatment or other abuse of juvenile males, several of whom at the al-Tobchi facility told UNAMI they had been beaten and sexually abused while held in the custody of the ministries of Interior or Defense prior to their transfer to a juvenile facility. Upon examining them, UNAMI observed injuries consistent with beatings and, in one case, an injury consistent with burns caused by a heated implement. Detaining officials at al-Tobchi told UNAMI they had recorded the juveniles' statements upon their arrival at the facility and, together with details of an initial medical examination, forwarded the case files to the CCCI's Juveniles Court to be taken into account at trial. At this writing UNAMI was following up on these cases with the authorities.

65. Ministry of Interior officials told UNAMI that as part of their admission procedures, detainees are photographed and examined for any evidence of torture, with medical staff on standby to make such assessments. Where injuries are observed, the detainees are returned to the arresting officials and a report compiled so that those responsible are held accountable. While disciplinary measures have been taken by the authorities in some cases where torture claims by detainees were substantiated, these measures remain limited to the imposition of fines, demotions, denial of leave entitlements, salary reductions, transfer to another position and, in more serious cases, dismissal. UNAMI remains hard pressed to find evidence that arresting or detaining officials are held accountable to the full extent of the law.<sup>79</sup> UNAMI believes that the failure to institute criminal proceedings against officials found responsible for abusing detainees only serves to perpetuate a climate of impunity that inevitably leads to the commission of further abuses. In one case where a detainee died in Ministry of Defense custody in May, the autopsy report found evidence of severe injuries inflicted through beatings.<sup>80</sup> Two arrest warrants were issued following the ensuing investigation, but by December neither had been served.

### **Detentions under Multinational Force Authority**

66. During the reporting period, the number of detainees held in MNF custody continued to increase from July through October, reaching a peak in November with a total of 25,525 detainees. In December, the number of new intakes did not exceed those released for the first time, falling slightly to 24,661.<sup>81</sup> UNAMI remained concerned about the internment of suspects in MNF custody for prolonged periods without judicial review of their cases, and administrative review procedures that do not fulfill the requirement to grant detainees due process in accordance with internationally recognized norms.<sup>82</sup> The US Government states that due process "is a human rights concept generally associated with criminal arrests and trials" and does not apply to security detentions under MNF authority in Iraq,

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<sup>79</sup> Iraq's Penal Code provides custodial sentences of up to 15 years for the crime of torture or other ill-treatment (articles 25, 26 and 333).

<sup>80</sup> The detainee was Adnan Awad Hamza al-Jumaily, who died on 30 May while held at the Ministry of Defense's 6<sup>th</sup> Division/3<sup>rd</sup> Brigade facility in the Abu Ghraib district of Baghdad.

<sup>81</sup> There is a slight discrepancy between this December figure provided by the Ministry of Human Rights for detainees held at Camp Cropper and Camp Bucca and that of the MNF, which stood at 24,514 and is likely to be more updated.

<sup>82</sup> UNAMI Human Rights Report, 1 April-30 June 2007, paras. 68-81.

based in part on its own interpretation of the nature of the conflict.<sup>83</sup> In December, upon a request for clarification by UNAMI, the MNF confirmed that the US Government continues to regard the conflict in Iraq as an international armed conflict, with procedures currently in force consistent with provisions of the Fourth Geneva Convention. UNAMI believes that alongside common article 3 to the four Geneva Conventions and customary international law, human rights law also applies. As such, persons held in MNF custody are entitled to be informed of the reasons for their arrest, to be brought promptly before a judge if held on a criminal charge, and to challenge the lawfulness of their detention.<sup>84</sup> A directive issued by the Prime Minister's Office in September stipulated, *inter alia*, that discussions take place between the Iraqi authorities and the MNF under the supervision of Iraq's National Security Adviser "to resolve the cases of detainees held by [the MNF] in accordance with the law in order to release those against whom there is no evidence, and to record the cases of those who committed crimes in the Iraqi criminal register". At this writing, UNAMI was seeking information on what steps have been taken in this regard.<sup>85</sup>

67. UNAMI acknowledges ongoing efforts by MNF to improve procedures for the handling of detainees within the existing framework. According to information provided to UNAMI by the MNF, procedures currently in force operate as follows. Upon arrest, detainees undergo an initial threat screening at Brigade level to determine whether they should be held or released. Those deemed to be a security threat are transferred to a Division Holding Area within 72 hours of arrest, where they undergo a further threat assessment and legal review by Staff Judge Advocate personnel. They are then transferred to a Theater Internment Facility – Camp Bucca or Camp Cropper – within 14 days of arrest. Within a further seven days, detainees' files are reviewed by the Magistrate Cell which can recommend continued internment, referral to the CCCI, or expedited release. Thereafter, administrative reviews take place after three months (reduced from six months), followed by a nine-month review and then a 15-month review, before the Combined Review and Release Board (CRRB).<sup>86</sup> A separate board, the Joint Detainee Review Committee (JDRC) reviews the cases of security internees who remain in MNF custody 18 months or more.<sup>87</sup> Subsequent reviews by the JDRC take place at 18-month intervals, with different panel members each time. According to the MNF, a higher level of classified intelligence on the cases being reviewed is made available to the Iraqi members of the JDRC than is the case for the CRRB.

68. Two changes introduced during the reporting period were an additional review process and the Pledge and Guarantor Program. In late June or early July, the Multinational Force Review Committee (MNFRC) was created, comprising three military officers who review case files and apprise detainees of the upcoming review and of their right to appear before the panel, which is optional. They also inform detainees that US legal advisers are available on site for consultation prior to the hearing. The panel members can recommend the release of detainees under the Pledge and Guarantor Program, release following completion of a rehabilitation program, or continued internment. Eight MNFRC boards meet six days a week and review some 200 cases daily, and can be held at any

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<sup>83</sup> Letter from the US Embassy in Baghdad to UNAMI, 2 October 2007, sent in response to UNAMI's Human Rights Report, 1 April-30 June 2007.

<sup>84</sup> These rights are consistent with the US Government's obligations under the International Covenant on Civil and Political Rights (ICCPR). The US Embassy challenged the extra-territorial application of the ICCPR, stating in its letter of 2 October 2007 that UNAMI "asserts that international human rights law applies to international armed conflict. In our view, this is not the case. The United States has long taken the position that the International Covenant on Civil and Political Rights does not apply extraterritorially" (*Ibid.*). Extraterritorial interpretation was confirmed at the highest political level of the United Nations when the General Assembly, in its Resolution 45/170 on the situation of human rights in occupied Kuwait, confirmed the application of Iraq's obligations under the Covenant in territory occupied by it in Kuwait. *See* G.A. Res. 45/170, U.N. Doc. A/RES/45/170 (18 December 1990) (adopted by vote of 144 -1, with the United States in favour).

<sup>85</sup> Executive Order No 207 of 20 September 2007 (Section Third, para. 4).

<sup>86</sup> As at mid-December, the CRRB, a joint MNF-Iraqi Government body, had two panels meeting three times a week. Its recommendations are made by majority vote, with the final decision remaining the prerogative of the MNF's Deputy Commanding General – Detainee Operations.

<sup>87</sup> The JDRC was established in 2004 pursuant to CPA/ORD/27 June 2004/99: Joint Detainee Committee. The JDRC is also a joint MNF-Iraqi Government body which requires six members, at least three being Iraqi.

point within the parallel CRRB review process.<sup>88</sup> The Pledge and Guarantor Program, begun in August, involves making a written pledge to keep the peace before an Iraqi judge, which the MNF regard as a legal document based on Iraqi law. If the detainee commits another offence, the guarantor is liable to pay a pre-determined sum of money for violation of the pledge agreement. Detainees recommended for release are required to complete a 'Transition In/Out Program' involving both a final assessment of the detainee's 'disposition' as well as educational classes.<sup>89</sup>

69. UNAMI notes and welcomes the fact that, from a pragmatic perspective, these measures have expedited the processing of cases, including decisions on releases. They do, however, leave key issues of concern unaddressed. MNF officials told UNAMI that the CRRB procedures are conducted "in the spirit" of Article 78 of the Fourth Geneva Convention, which requires an Occupying Power to establish a "regular procedure" for the periodic review of internment decisions and "shall include the right of appeal for the parties concerned". While these periodic reviews are operational and are held at more frequent intervals than the six months prescribed by Article 78, substantively the internees have little basis on which to formulate an appeal since they have very limited access to the evidence against them. Even the Iraqi members of the CRRB review board only receive a "summary of the classified information" on each case. Continuing reservations on this and other grounds led Iraq's Ministry of Justice to suspend its participation in both the CRRB and JDRC reviews in August.<sup>90</sup> Further, while detainees have the option of consulting US legal advisers prior to their case review, these advisers ultimately represent the detaining authority. While UNAMI welcomes measures permitting detainees to make written submissions to the CRRB, and to attend the MNFRC reviews in person, these measures do not in themselves enable detainees to challenge internment decisions. UNAMI also understands that MNFRC reviews are brief in nature, lasting several minutes each and focusing on the detainees' conduct rather than the basis for their arrest and detention. In its letter to UNAMI of 13 March 2008, the US Embassy disagreed "with this description of the MNFRC reviews... The MNFRC panel thoroughly reviews each case file at length prior to the convening of the board. The panel considers all of the evidence in the detainee's file, including the circumstances for detention; the behavior of the detainee while in the Theater Internment Facility is only one component of his case".<sup>91</sup> To UNAMI's knowledge, no consideration is being given at present to the possibility of allowing defense counsel to represent detainees at administrative review hearings.

70. Access to defense counsel remains problematic, including for detainees referred to trial before the CCCI. According to procedures in force, detainees can request access to counsel within 14-21 days of arrest, but in practice this does not happen. While the reasons for this are multiple and cannot be considered a matter of policy, they leave key structural problems in the system unaddressed. Lawyers nominated by the Iraqi Bar Association to defend detainees held by the MNF told UNAMI that in practice only those detainees who have already had family visits are able to contact them. Current MNF policy imposes a 30-day window before detainees are allowed family visits. The lawyers also stated that they generally had access to their clients and their case file on the day of the investigative hearing, and received no advance notification of dates when hearings are scheduled. If retained counsel is absent, their clients are represented by court-appointed lawyers who are even less familiar with their cases. MNF officials told UNAMI that lawyers who request appointments to meet their clients at Camp Cropper frequently fail to turn up, while very few if any have ever attempted to see their clients at Camp Bucca. The lawyers note that their visits should be facilitated by the MNF,

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<sup>88</sup> The MNFRC process, which began on 2 July, 2007, resulted in over 18,000 reviews at Camp Bucca and over 1,300 reviews at Camp Cropper by 31 December 2007 (Letter from the United States Embassy in Baghdad to UNAMI, 13 March 2008). Earlier, UNAMI had received data from the MNF which indicated that in the six months leading up to mid-December, 15,004 MNFRC reviews were held, all of them on site at Camp Bucca. According to the MNF, about one-third of detainees who appear before the MNFRC board are recommended for release.

<sup>89</sup> According to MNF data, 3,592 detainees were recommended for release under the Pledge and Guarantor Program up to the first week of December. UNAMI does not know how many were actually released. According to the MNF, the recapture rate of those released under this program was 1.2% as of early December.

<sup>90</sup> The Ministry of Human Rights initially followed suit, but resumed its participation in late November following the issuance of an order by the Prime Minister's Office. The Ministry of Justice's membership of the review boards remained suspended.

<sup>91</sup> Letter from the United States Embassy in Baghdad to UNAMI, 13 March 2008.

given security conditions. They also observe that they are given very little time to read case files, which typically contain written statements from MNF patrols units involved in the initial arrest, and photographs of the detainees with confiscated weapons or other evidence. The opportunity to question prosecution witnesses or examine other evidence in the case is also limited.

71. UNAMI remains concerned at the high number of detainees who remain in MNF custody following dismissal of their cases at trial before the CCCI. The number of detainees in this category who remain held on the basis of a continuing threat assessment has risen gradually since mid-2004. While the MNF authorities are empowered to retain in custody persons for “imperative reasons of security”, the decision to disregard the court’s rulings in such cases is inconsistent with the US authorities’ message with regard to respect for the rule of law and does not reflect a high degree of confidence in an institution established under the Coalition Provisional Authority as a model criminal court.<sup>92</sup> In its response to UNAMI, the US Embassy disagreed with UNAMI’s assessment, stating that “Detention by MNF-I for imperative reasons of security is distinct from GOI [Government of Iraq] criminal conviction; the two procedures serve different purposes and apply different standards. It may be necessary to detain an individual for imperative reasons of security for some time after the individual has been acquitted in the criminal system. Such continued security detentions in no way evidence a lack of confidence in the Iraqi criminal system. It is MNF-I policy to release all detainees who are no longer considered to be an imperative threat to the security and stability of Iraq as quickly as operational necessity will allow”.<sup>93</sup> One change introduced in early June was to refer all cases dismissed at trial automatically to the MNFRC board for a “fast track” review and recommendations.<sup>94</sup> While MNF officials told UNAMI that their approach is indeed to review all such cases with a view to releasing as many as possible, as of 11 December, 367 so-called “On Hold” detainees remained held, while a further 39 were released at various stages since March 2006.<sup>95</sup>

72. The number of juveniles held in MNF custody also continued to rise: on 8 December, the total number held was 874 as compared with some 250 in early 2007. The total fell to 685 by the end of December: some were transferred to Camp Bucca after reaching the age of 18, while the remainder were either released or transferred to Iraqi government custody.<sup>96</sup> According to the MNF, the high number is evidence of the increased recruitment of children by insurgent groups, as reflected in the religious affiliation of the juvenile detainee population which by mid-December was 87.6% Sunni. Procedures for processing these cases are similar to those followed for adult detainees as regards internment and referral to court.<sup>97</sup> Those referred to trial are transferred to Iraqi custody to await trial. Of the total number of juveniles referred over time to the CCCI’s Juveniles Court, 89 had been convicted by the end of December. In December, UNAMI sought clarification from the MNF on the status of juvenile detainees who have already spent one year in internment and who, according to procedures in force, must be released unless charged and referred to trial.<sup>98</sup>

73. In a positive development starting in July, the MNF launched several rehabilitation programs for adult male detainees and juveniles.<sup>99</sup> The adult male program was launched in late August or early September, involving both teacher training as well as a basic education program following the Iraqi official curriculum.<sup>100</sup> Some 5,100 detainees participated in the basic program up to early

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<sup>92</sup> The CCCI was created in accordance with CPA/ORD/18 June 2003/13 (Revised): The Central Criminal Court of Iraq (Amended).

<sup>93</sup> Letter from the United States Embassy in Baghdad to UNAMI, 13 March 2008.

<sup>94</sup> Prior to that date, the Deputy Commanding General – Detainee Operations personally reviewed all such cases.

<sup>95</sup> The data provided to UNAMI by the MNF on these cases goes back only as far as March 2006. Information on cases prior was not readily available.

<sup>96</sup> These breakdowns were not available to UNAMI at this writing.

<sup>97</sup> Juvenile detainees do not appear before the Joint Detainee Review Committee (JDRC), which is for adult detainees only.

<sup>98</sup> CPA/MEM/27 June 2004/03: Criminal Procedures, Section 6 (5) of which states that “Any person under the age of 18 interned at any time shall in all cases be released not later than 12 months after the initial date of internment”.

<sup>99</sup> At this writing UNAMI had no information on rehabilitation programs for female detainees, which numbered 13 at the end of December.

<sup>100</sup> As at mid-December, 44 teachers and 65 counselors were employed for the adult programs.

December.<sup>101</sup> A Detainee Work Program was also launched, in which 2,482 detainees participated up to early December, together with vocational training at Camp Cropper.<sup>102</sup> The Youth Program, run at FOB Constitution, runs daily classes for juvenile detainees on a number of subjects, including English, mathematics, sciences, civics, geography, arts and crafts, and computer training. The juvenile detainees also have access to a library and sports facilities.<sup>103</sup>

### **Detentions under Kurdistan Regional Government authority**

74. Between July and December, UNAMI conducted twelve visits to nine detention facilities and prisons in the Kurdistan region under the authority the *Asayish*, the Ministry of Interior and the Ministry of Labor and Social Affairs.<sup>104</sup> These included facilities located in the cities of Erbil, Duhok and Sulaimaniya as well as 'Aqra and Shaqlawa. Four of these visits were to 'Aqra detention facility, where concerns regarding the legal status, treatment of detainees and living conditions have long been of serious concern. Detainees were typically detained illegally without judicial order, ostensibly on the basis of classified intelligence.<sup>105</sup> UNAMI found three detainees held without charge for over seven years, while others for periods between two and four years.<sup>106</sup> UNAMI submitted its findings and recommendations to the KRG Prime Minister and to *Asayish Gishti* officials, who agreed to review the cases highlighted.<sup>107</sup> While UNAMI welcomed the KRG Prime Minister's decision in July 2007 to close down the 'Aqra facility on grounds of poor sanitation and hygiene conditions, it remained operational until early February 2008.<sup>108</sup>

75. UNAMI is concerned that the practice of indefinite detention without trial, particularly of persons suspected of terror offences, remains a matter of policy. A document released by *Asayish* officials to UNAMI in December 2007 states that persons suspected of affiliation with Islamist groups may be detained for between one and seven years without charge. In its response to UNAMI, *Asayish* officials in Sulaimaniya denied holding detainees for this length of time without a judicial order, with the exception of a group of 20 detainees who have been held without a judicial order for "between 3-4 years only".<sup>109</sup> The practice of administrative detention, despite the passage of the 2006 Anti-Terror Law, was confirmed by senior officials in Erbil.<sup>110</sup> In lieu of criminal proceedings, terror suspects detained on the basis of information provided by KRG intelligence agencies undergo "rehabilitation" or "reform" for an undefined period. *Asayish* officials apparently recommend release only subject to

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<sup>101</sup> Data provided to UNAMI by the MNF. Religious discussion classes have also been instituted at Camp Cropper and Camp Bucca, run by 'moderate clerics'. Up to mid-December, 741 detainees at both locations had taken part.

<sup>102</sup> The Detainee Work Program is planned to include construction work and employment at a textile and brick-making factories once these are established. Vocational training at Camp Cropper at present is for employment as carpenters, plumbers and electricians.

<sup>103</sup> The Youth Program is located at the so-called *Dar al-Hikma* (House of Wisdom) on FOB Constitution, employing 14 teachers and 12 counselors and running classes for some 150 juvenile detainees weekly.

<sup>104</sup> *Asayish Gishti* Shaqlawa; *Asayish Gishti* Akre; *Asayish Gishti* Erbil; *Asayish* Erbil; Duhok Women and Juvenile Rehabilitation Centre; Erbil Women and Juvenile Rehabilitation Centre; Sulaimaniya Women and Juvenile Rehabilitation Centre; Zarga Prison and *Asayish Gishti* Kani Goma (Sulaimaniya).

<sup>105</sup> In its letter to UNAMI dated 13 March 2008, the KRG authorities stated that since March 2007, all detainees at the Akre facility were being held on the basis of a court order. Nonetheless, UNAMI notes that the majority of detainees in Akre had been arrested and detained illegally prior to March 2007, some of them for several years, without a judicial order.

<sup>106</sup> More than 50% of them were Arabs. From a sample group of some 200 detainees, 70% of them had not been produced before an investigative judge or referred to court.

<sup>107</sup> Meeting with officials at *Asayish Gishti* on 23 August 2007; 1 October 2007 and 5 November 2007 and letters dated 29 August and 20 October 2007.

<sup>108</sup> KRG officials told UNAMI that all the cases of detainees held at Akre have been processed and their current detention authorized by a judge, and that these detainees were "high-risk members of terrorist groups", requiring time for their transfer to a suitable location (Letter from the Kurdistan Regional Government to UNAMI, 13 March 2008).

<sup>109</sup> *Asayish* officials stated that these detainees had been arrested prior to the promulgation of the 2006 Anti-Terror law and gave assurances that they would be released "in the future" (Letter from the Kurdistan Regional Government to UNAMI, 13 March 2008).

<sup>110</sup> Discussions between UNAMI and two senior officials took place in December 2007. Prior to the promulgation of the 2006 Anti-Terror Law, KRG officials argued that terror suspects could not be charged and referred to the courts in the absence of appropriate legislation, and in the absence of relevant provisions in Iraq's Penal Code. While UNAMI has a number of reservations with regard to the 2006 Anti-Terror Law, it is concerned that the KRG authorities continue to resort to long-term administrative detention as a way to combat terrorism in the region.

the imposition of conditions such as monitoring and regular reporting to the *Asayish*, and the production of two guarantors from the region for those whose habitual residence is located outside the KRG.<sup>111</sup>

76. According to a confidential report prepared by a ministerial committee in June 2007, there were 3,781 persons deprived of their liberty in prisons and detention centers in the Kurdistan Region.<sup>112</sup> The data indicated that some 2,410 were pre-trial detainees, including over 700 who were held by the *Asayish* without judicial order.<sup>113</sup> *Asayish Gishti* officials told UNAMI that during 2007, all 700 detainees were brought before a judicial officer, and that “most” had been released or transferred elsewhere. They also stated that “most” of the 3,781 detainees have also been released while “some” were transferred to police stations. However, UNAMI was not provided with data in this regard and was not in a position to independently verify this information.<sup>114</sup> The report noted “some cases” where detainees were held for over seven years without judicial order and without being informed of basis for their arrest; further, that officials themselves could not explain what the basis for these arrests was. The ministerial committee recommended assigning additional judicial officers to process cases and establishing a directorate for prosecutors in all prisons to participate in preliminary investigations, urging greater cooperation between judicial investigators and detention personnel.

77. In August, *Asayish* officials in Erbil told UNAMI they were aiming to complete a review of 680 cases within two months, and to release those held illegally. By September, they reportedly released 100 detainees, 63 of them Arabs from Mosul and 37 Kurds from ‘Aqra, and that a further 43 Iraqi Arabs were transferred to the authorities in Mosul for trial. In Sulaimaniya, *Asayish* officials said they released 86 pre-trial detainees in August and September as they were no longer considered a security threat. Data received from the *Asayish* indicates that the conditional release of 484 detainees was authorized between January and mid-December 2007.<sup>115</sup> In March 2008, *Asayish* officials in Sulaimaniya stated that 200 of the 484 detainees have since been released due to insufficient evidence, or pursuant to a court order, or after benefiting under the General Amnesty Law. A further 409 detainees were said to have been released on the basis of court orders between January and December 2007.<sup>116</sup> UNAMI received partial lists of those released or whose cases were reviewed, some of which could not be independently verified. Further measures are required to resolve pending cases. Most detainees held in the Kirkuk wing at the new Kani Goma facility in Sulaimaniya governorate are Iraqi Arabs detained for an average period of three years. Some were not arrested on suspicion of terror-related offences but on alleged murder charges and it was unclear why their cases had not been processed.<sup>117</sup> Official records indicated that 38 out of 103 detainees had not been referred to an investigative judge.<sup>118</sup> UNAMI’s own estimates, based on interviews with detainees at Kani Goma indicate that more than 60% of those held for six months or longer have yet to have their detention

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<sup>111</sup> By December 2007, *Asayish Gishti* officials in Sulaimaniya had recommended the release of 48 detainees from Kirkuk falling in this category, but UNAMI was not in a position to verify whether the detainees were able to fulfill the conditions for release.

<sup>112</sup> The report on regional prisons, prepared by the Council of Ministers’ Legal Committee on the order of KRG President Masoud Barzani, was provided to UNAMI confidentially in August and permission to publish information contained in it granted by officials on 8 October. Of the total 3,781 inmates cited, the report gives the breakdown per governorate as follows: 1,678 in Sulaimaniya; 1,408 in Erbil and 695 in Duhok.

<sup>113</sup> Reasons for arrest included suspicion of affiliation with terror groups, among them members of *Ansar-al-Islam* captured during clashes with security forces. Others were arrested on the basis of information of possible acts of terror. The report also refers to Arab detainees arrested by MNF troops outside the Kurdistan Region and subsequently transferred to KRG custody. With regard to the latter cases, UNAMI is aware that, according to KRG officials, most such transfers took place in the second half of 2004 and early 2005.

<sup>114</sup> Statistics provided to UNAMI by the Ministry of Human Rights indicated that by December 2007, 565 detainees were being held in the custody of *Asayish* Sulaimaniya, and 434 others in the custody of *Asayish* Erbil.

<sup>115</sup> This group comprises 201 detainees held by *Asayish* Kirkuk and 283 others by *Asayish Gishti* in Sulaimaniya.

<sup>116</sup> Letter from the Kurdistan Regional Government to UNAMI, 13 March 2008.

<sup>117</sup> *Asayish* officials in Sulaimaniya stated that all these detainees had been involved in terror-related offences (Letter from the Kurdistan Regional Government to UNAMI, 13 March 2008).

<sup>118</sup> This data was given to UNAMI by *Asayish* officials in Sulaimaniya on 12 December 2007.

reviewed by a judge. The KRG disputed UNAMI's findings, stating that the current figure stands at 1%, and that the backlog of cases had contributed to the delays in processing these cases.<sup>119</sup>

78. Of equal concern are detainees arrested outside the KRG region, notably Mosul and Kirkuk, and later transferred to KRG custody where they remain held without charge. According to KRG officials, the arrests were carried out by MNF and Iraqi security forces. *Asayish* officials in both Erbil and Sulaimaniya told UNAMI that the Mosul and Kirkuk authorities frequently refused to receive Arab suspects held by the KRG, and that without the central government's cooperation there was no other option except to continue holding them.<sup>120</sup> While most such arrests date back to 2004-2005, UNAMI noted claims by ten detainees interviewed during a visit to Kani Goma on 12 December that they had been arrested by MNF personnel and Iraqi security forces within the last twelve months. These claims are inconsistent with *Asayish* officials' statements that the KRG no longer accepts detainees from outside the region, and with those of MNF officials that they neither receive nor hand over detainees in relation to the KRG. Further investigation and cooperation between the authorities representing the KRG, the Iraqi Government and the MNF are required to resolve these cases. In its March 2008 response, the KRG authorities stated that "most" of the detainees in this category have been released and that "some" were transferred to Kirkuk and Mosul.<sup>121</sup> In its own response on these cases, the US Embassy stated that "The *Asayish* held 229 detainees in Sulaymaniyah for offenses alleged to have been committed outside the KRG. *Asayish* forces detained these individuals while operating outside of the KRG. The KRG courts declined to investigate and try the cases because the offenses arose outside KRG; they assert no jurisdiction over the cases. After an initial request by the *Asayish*, the Iraqi Higher Judicial Council agreed to investigate and dispose of the cases in accordance with Iraqi law. Of the original 229, 15 have been released by the KRG for lack of evidence. The remaining individuals will be transferred in small groups to the proper detention facility for investigation by the appropriate Iraqi court. Ninety percent of those who remain are from Kirkuk; the rest are from other Iraqi jurisdictions in northern Iraq".<sup>122</sup>

79. UNAMI continues to receive allegations of torture at the hands of security and intelligence personnel. Much of the alleged abuses were said to occur during initial interrogation when detainees were held in isolation in houses or other unacknowledged locations before being transferred to official detention facilities. One senior official with whom UNAMI raised this issue denied the existence of "secret" or unofficial detention facilities. Other officials said that incidents of abuse or torture do occur but their numbers had dropped significantly; that lack of training and experience on the part of investigators in conducting complex investigations was a contributing factor; and that more recent cases of abuse occurred elsewhere prior to the transfer of the detainees to the KRG region. While KRG officials state that they do not condone torture and their policy is to punish those responsible, there is no evidence to date that accountability measures were seriously implemented. In its March 2008 response, *Asayish* officials in Sulaimaniya stated that all detainees are given two questionnaires, before and after the investigation phase, to record any complaints of ill-treatment or misconduct on the part of *Asayish* officials.<sup>123</sup> UNAMI notes that the likelihood of such complaints being made while detainees remain in the custody of the same officials is small, and had no information on the number of detainees who availed themselves of this offer. Recent data released by *Asayish Gishtî* in Sulaimaniya showed that in 2007, only one official was dismissed for beating a detainee, with no indication that criminal proceedings were brought against him. The absence of prompt and thorough investigations applies

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<sup>119</sup> Letter from the Kurdistan Regional Government to UNAMI, 13 March 2008).

<sup>120</sup> *Asayish Gishtî* officials in Sulaimaniya apparently requested the KRG Ministry of Interior to facilitate the return of detainees to governorates under central government authority, citing the cases of nine detainees whose transfer to these governorates was ordered over eight months earlier but not implemented.

<sup>121</sup> Letter from the Kurdistan Regional Government to UNAMI, 13 March 2008. The KRG authorities added that some of these detainees were on their "wanted list" and were arrested while attempting to enter the Kurdistan region, while most others were released after initial investigations.

<sup>122</sup> Letter from the United States Embassy in Baghdad to UNAMI, 13 March 2008.

<sup>123</sup> Letter from the Kurdistan Regional Government to UNAMI, 13 March 2008.

equally to cases of death in custody.<sup>124</sup> The KRG authorities have since reiterated its willingness to investigate allegations of torture.<sup>125</sup>

80. Conditions at detention facilities visited by UNAMI during the reporting period varied. The *Asayish Gishti* facility in Shaqlawa appeared well-maintained and without overcrowding problems, as did the new Zarga Prison in Duhok governorate, a facility for adult males run by the Ministry of Interior but with one wing under *Asayish* authority.<sup>126</sup> At ‘Aqra, by contrast, detainees were cramped in their cells in unsanitary conditions. There was no electricity on most days in summer, and many detainees suffered from poor nutrition, skin diseases and bronchial problems. The *Asayish Gishti* facility in Erbil also remained seriously overcrowded. Facilities for women and juvenile detainees in Duhok, Erbil and Sulaimaniya lacked recreational, vocational and other rehabilitation programs. In June, the Council of Minister’s Legal Committee found that conditions at prisons and detention facilities were unsatisfactory, recommending the building of two new prisons in Erbil and Sulaimaniya. It noted inadequate medical care; overcrowding; inadequate provision of clean clothing and washing facilities; poor safety standards; and lack of space for exercise and sports and facilities for family visits. UNAMI welcomes measures taken by the KRG authorities to date to improve conditions of detention, as well as plans for a wider reform of the penitentiary system in the KRG region.

### **Trial procedures and the death penalty**

81. UNAMI remains concerned about procedures followed by the Central Criminal Court of Iraq (CCCI) and other criminal courts in Iraq, which fail to meet minimum fair trial standards. Basic legal entitlements to a fair trial are routinely denied the defendants, including adequate and timely access to counsel, access to the evidence, the right to have adequate opportunity to call and cross-examine witnesses, and generally to challenge the prosecution’s case and produce exculpatory evidence during the proceedings. UNAMI appreciates the cooperation it has received from members of the judiciary, including judges, prosecutors and others, some of whom readily admit to the existence of shortcomings within the system. While acknowledging the efforts being made by the judicial authorities to effect improvements in the proceedings, and the measures taken by Iraqi officials and their international advisers to expand the court system and rehabilitate courthouses,<sup>127</sup> the quality of proceedings needs to be addressed as a matter of urgency if miscarriages of justice are to be averted.

82. During the last four months of 2007, UNAMI observed several trials and investigative sessions at the CCCI in al-Karkh and one trial at the CCCI in the al-Rusafa Complex. In one trial on 10 September, three Syrians faced charges of membership of the 1920 Revolution Brigade and possession of illegal weapons.<sup>128</sup> During his questioning of the defendants, the presiding judge focused on their confessions before Ministry of Interior investigating officers. The defense plea, lasting some three minutes, included a request for acquittal on grounds of insufficient evidence and a reference to a report

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<sup>124</sup> A detainee arrested on 9 September by *Asayish* personnel in Duhok for drug trafficking, reportedly died within 24 hours. The body of Azad Ni’mat Nader was delivered to the local morgue by the *Asayish*, who later alleged that he had committed suicide. On 4 October, UNAMI received a response from the KRG on the alleged death of a detainee, Fahmi Ismail Abu Bakr, questioning allegations that he had died under torture, but without acknowledging that he was held by the KRG authorities or that he had died in their custody. The authorities have yet to respond on the death in custody of another detainee, Ismail Ahmad Hassan, whose case was previously raised by UNAMI (*see* UNAMI Human Rights Report, 1 January-31 March 2007).

<sup>125</sup> Letter from the Kurdistan Regional Government to UNAMI, 13 March 2008.

<sup>126</sup> Facilities at Zarga Prison established or planned include a health centre, school, prayer hall, family visit hall and workshops.

<sup>127</sup> By early October, the CCCI in al-Karkh had four trial chambers with 12 judges, as well as four prosecutors. At the CCCI in al-Rusafa, a second trial chamber became operational in late December. An additional Juveniles Court was also established within the CCCI branch in al-Anbar in September.

<sup>128</sup> UNAMI had the opportunity to speak to the defendants before the trial. They claimed that they had been tortured, that they had met their defense attorney on one occasion only, and that they had no knowledge of the evidence against them. On the day of the trial, their lawyer was absent and they were represented by a new, court-appointed counsel some ten minutes before the start of proceedings.

which counsel said provided evidence that the defendants had been tortured while held at the al-Jadiriya facility in Baghdad.<sup>129</sup> The trial lasted 50 minutes, including time taken for deliberation, and the defendants were convicted and sentenced to life imprisonment. The summary nature of the proceedings and poor quality of the defense in this case typifies proceedings followed in the majority of cases heard before the criminal courts. In another trial on 23 October, a defendant referred to the CCCI by the MNF faced charges of links to an insurgent group responsible for attacks on MNF personnel and bases.<sup>130</sup> The presiding judge referred to fake identification documents and a number of CDs seized from the defendant upon his arrest, as well as to a confession before the investigative judge which the defendant recanted in part during the trial. There was no questioning by retained counsel of any prosecution witnesses or examination of other evidence which was not produced in court. Counsel referred to “exaggerated confessions” by the defendant and asked for the court’s mercy. The trial lasted 45 minutes and the defendant was sentenced to death.

83. According to the records of the CCCI in al-Karkh, the total number of cases handled by the Investigative Court during 2007 was 23,973. Of these, 16,526 were dismissed and the remaining 7,447 were referred to trial. The number of cases concluded at trial between the beginning of January and up to 22 October 2007 was 2,538, of which 116 cases involved juveniles.<sup>131</sup> Iraq’s criminal courts passed 378 death sentences in 2007,<sup>132</sup> ten of them involving women.<sup>133</sup> During the year, 41 death sentences were carried out.<sup>134</sup> While the vast majority of defendants sentenced to death are referred to the criminal courts by the Iraqi authorities, a growing number of defendants referred to the CCCI by the MNF are also receiving capital punishment. Since the re-introduction of the death penalty in August 2004 and up to the end of December 2007, 122 such defendants have been sentenced to death. Of these, 33 have been transferred by the MNF to Iraqi Government custody for implementation of sentence. Three of the death sentences were carried out, the last one being in early August 2007. In the KRG region, 16 death sentences were passed by the criminal courts in 2007, but information on how many were implemented was not available at this writing.<sup>135</sup> In response to UNAMI’s recommendation to the MNF that it refrain from transferring prisoners under sentence of death to the Iraqi authorities pending a thorough review of legal proceedings followed in their cases at trial, the US Embassy stated that “MNF-I does not transfer to the GOI [Government of Iraq] criminal convicts who have been sentenced to the death penalty where MNF-I authorities have reason to believe that the individual was not afforded due process”.<sup>136</sup>

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<sup>129</sup> Details of the torture and ill-treatment that took place at the al-Jadiriyya facility, under Ministry of Interior authority, were documented in previous UNAMI Human Rights Reports.

<sup>130</sup> The case file indicated that this group was *Ansar al-Sunna*, and that the defendant was arrested during an MNF raid targeting an *emir* from this group in the Abu Ghraib district of Baghdad in November 2006.

<sup>131</sup> This refers to cases tried by the CCCI in al-Karkh only. Separate data provided by the Higher Judicial Council for the period October-December 2007 indicates as follows: there were 206 pending or new cases at the CCCI in al-Rusafa, of which 200 (97%) were concluded, while at the CCCI in al-Karkh, there were 686 pending or new cases, of which 488 (71%) were concluded.

<sup>132</sup> Data on sentences passed was provided by the Higher Judicial Council. Of the total, 238 death sentences were passed in the period 1 June-31 December 2007.

<sup>133</sup> Four of the women sentenced to death between June and December 2007 were convicted for premeditated murder under Article 406 of the Penal Code: Intisar Awwad Hamid; Sawsan Amin Abdullah, Nuha Mun'im Kadhim; and Luma Adnan Hussein. Two others were convicted on terrorism charges under Article 4 of the 2004 Anti-Terror Law: Lamia Adnan Khudhair and Fa'iza Abdul-Amir. All six cases were under review by the Court of Cassation by late December. Four others sentenced to death between January and May 2007 remained on death row (*see* UNAMI Human Rights Report, 1 April-30 June 2007, para. 94).

<sup>134</sup> Data on sentences carried out was provided by the Ministry of Justice, which said that the 41 cases principally involved premeditated murder, abduction and terror related offences

<sup>135</sup> Data provided to UNAMI by the KRG Ministry of Justice. Twelve of the death sentences were for premeditated murder under article 406 of the Penal Code, and four others for the illegal possession, manufacture or use of explosives under article 2 of Law No. 8 of 1992.

<sup>136</sup> Letter from the United States Embassy in Baghdad to UNAMI, 13 March 2008.

## **Iraqi High Tribunal**

84. On 4 September, the Cassation Chamber of the Iraqi High Tribunal (IHT) upheld three death sentences passed by the IHT's Criminal Chamber in the Anfal trial, which was concluded in June. Five defendants on trial for genocide, crimes against humanity and war crimes were convicted and the charges against a sixth defendant were dismissed.<sup>137</sup> Those sentenced to death were: Ali Hassan al-Majid, former Secretary-General of the Ba'ath Party's Northern Bureau; Sultan Ahmad Hashem al-Ta'i, former Minister of Defense and Chief of Staff of the Iraqi Armed Forces; and Hussein Rashid al-Tikriti, former Deputy Chief of Staff for Operations of the Iraqi Armed Forces. In a highly politicized case, a difference of views emerged between the Presidency Council and the Office of the Prime Minister over, *inter alia*, the legal and constitutional requirements for the ratification of the death sentences by the Presidency Council.<sup>138</sup> By the end of December the issue had not been resolved and all three prisoners remained in the physical custody of the MNF. International observers and monitors of the trial noted a number of serious concerns regarding the fairness of the proceedings followed by the IHT. These included poorly constructed charging instruments prejudicial to the defendants' basic right to defend themselves, the introduction in court of previously undisclosed evidence by the prosecution, and curtailment of defense counsel capacity to cross-examine complainants and defendants.<sup>139</sup>

85. On 21 August, the third trial before the IHT opened with 15 defendants charged with crimes against humanity in connection with events which took place in southern Iraq during the 1991 uprising. The scope of the case is limited to events in Basra and al-'Amara on 1 and 5 March 1991 respectively and their aftermath. According to the referral document issued by the IHT's Investigative Chamber in March 2007, evidence was submitted to the Criminal Chamber in connection with the execution of 6,843 people in Basra governorate and 2,059 others in Misan governorate, the arrest and detention of large numbers of people, and the use of torture; statements by victims, eyewitnesses and defendants; and documentation on mass graves in both locations. The 15 accused include the above-mentioned three defendants sentenced to death in the Anfal case in June 2007.

## **Promotion activities of UNAMI**

86. UNAMI continued to provide support to the Government of Iraq, the Kurdistan Regional Government and civil society organizations through capacity building activities relating to human rights issues. These activities aimed at assisting in the development of a national human rights protection system and in consolidating a culture of human rights in Iraq. In the context of its 2006-2007 Human Rights Project, UNAMI focused its promotional activities during the reporting period on consultations and training workshops for officials representing the Iraqi Government and the KRG, with NGO representatives participating in several of these activities. UNAMI also worked with UN agencies, including the UN Economic and Social Commission for Western Asia (ESCWA), the UN Educational, Scientific and Cultural Organization (UNESCO), the UN Children's Fund (UNICEF), and the UN Development Fund for Women (UNIFEM), in conceptualizing and contributing to the mainstreaming and integration of human rights activities, including through joint projects. The overall

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<sup>137</sup> Two of the defendants were sentenced to life imprisonment.

<sup>138</sup> In September, Vice-President Tareq al-Hashimi requested the Federal Supreme Court to provide an interpretation of Article 73(Eighth) of the Iraqi Constitution, which stipulates that death sentences issued by the "competent courts" must be ratified by the Presidency Council. Essentially, the question was whether the IHT covered by the term "competent courts". On 26 September, the Federal Supreme Court ruled that the IHT was among the "competent courts" referred to, taken together with the provisions of Article 130 of the Constitution. The ruling was implicit rather than explicit in its interpretation. An earlier opinion provided on 30 August by the State Shura Council, again at the request of Vice-President Hashemi, stated that all death sentences issued after amendments to the Code of Criminal Procedure were passed on 18 April 2007 must be ratified by the Presidency Council.

<sup>139</sup> See UNAMI Human Rights Report, 1 April-30 June 2007, para. 100.

aim is the promotion of human rights education to support peace building initiatives by UN agencies and their Iraqi partners.

### **Support to the governmental sector**

87. UNAMI continued to offer expert advice to the International Compact for Iraq (ICI). Jointly chaired by the Government of the Republic of Iraq and the United Nations with the support of the World Bank, the ICI was launched on 26 July 2006 to bring together, over the next five years, the international community and multilateral organizations to engage on core governance reform, civil service capacity-building, economic development and political reform. UNAMI provided regular input into the human rights component of the ICI. The ICI stipulates the creation of a National Human Rights Commission with the objective of monitoring, investigation, protection and promotion of human rights.

88. In July, UNAMI organized the second in a series of workshops on specialized transitional justice issues focusing on the issue of reparations within the framework of a national strategy for Iraq. The three-day workshop, entitled “*Goals and Challenges of Reparations as a Transitional Justice Measure in Iraq*”, was held in Amman 12-14 July in collaboration with UNAMI’s implementing partner, the UN Office for Project Services (UNOPS) and the International Center for Transitional Justice (ICTJ). Thirty participants, including Iraqi Government and KRG officials, members of the Council of Representatives and civil society activists reviewed transitional justice initiatives in Iraq, examined the concepts and goals of reparations, and compared their experience with those of Chile, Germany and Morocco. The workshop concluded with recommendations for consolidating future measures for an effective and equitable reparations system in Iraq.

89. UNAMI also held the first of a two-phased Training of Trainers (TOT) Course on Human Rights, which took place in Amman between 31 August and 11 September. The training was conducted by the Tunis-based Arab Institute for Human Rights for 23 Iraqi officials representing 11 ministries from the Iraqi Government and the KRG, including the ministries of Human Rights, Foreign Affairs, Interior, Defense, Justice, Labor and Social Affairs, Women’s Affairs, and Civil Society Affairs, as well as representatives of the Council of Representatives’ Human Rights Committee. The training aimed at providing participants with a solid knowledge of relevant human rights issues, and international mechanisms for the protection of human rights. Strategic discussions were conducted on the development of work plans for the ministries in mainstreaming human rights and strengthening cooperation and coordination for this purpose.

### **Support to the rule of law sector**

90. In October, UNAMI organized a specialized training course on the theme of “*International mechanisms for the protection of the rights of detainees and prisoners*”. The 19 participants at the workshop, held in Amman on 17-21 October, represented Iraqi Government and KRG officials involved in the monitoring of detention facilities and prisons. The aim was to provide participants with in-depth knowledge of international human rights protection mechanisms, international standards for fair trial, rights of pre-trial detainees and prisoners, standard minimum rules for the treatment of prisoners (including juveniles and women), the UN Convention against Torture. The program included a discussion of Iraqi criminal legislation in light of international standards.

91. On a similar theme, UNAMI organized a four-day training course for 74 correction facilities personnel, including guards, staff supervisors and social workers, held in Erbil between 29 October and 1 November. This workshop was the first of a series of human rights training packages for prison officials on international human rights standards relevant to the administration of justice and the

protection of persons deprived of their liberty. The training materials incorporated regional requirements and legal procedures currently in force in the Kurdistan region.

92. In partnership with UNDP, UNAMI began preparations for the implementation of a project aimed at strengthening the rule of law in Iraq through capacity building for officials of the ministries of Defense and Interior in Baghdad. The project will aim to mainstream human rights into the ministries' policies and strategies, and to increase awareness among their staff of international human rights standards in dealing with the civilian population. The project will include human rights awareness raising activities, production of manuals and provision of specialized workshops on human rights topics relevant to the ministries' competencies.

### **Activities in the Region of Kurdistan**

93. In cooperation with the KRG Ministry of Interior, UNAMI organized the first of a series of training workshops on the theme of "*Human Rights in Law Enforcement*", held on 29-31 July in Erbil. The participants were 57 officers of various ranks drawn from several law enforcement agencies. The workshop aimed at providing information on international human rights standards relevant to law enforcement, focusing on the rights of vulnerable groups and the accused, encouraging the development of skills and the formulation and implementation of policies necessary to transform theory into practice, and to increase awareness of the role of law enforcement officials in protecting and promoting human rights in their daily work. At the request of participants and officials, UNAMI agreed to assist the police in reviewing the Police Academy training curriculum to include human rights topics and in drafting a Code of Ethics and Conduct, and to hold similar training courses for the police in the Kurdistan Region.

94. Between 8-9 August, UNAMI organized a two-day transitional justice workshop in Erbil entitled "*Transforming Past Conflicts - Documenting Past Crimes in Iraqi Kurdistan Region.*" Sixty participants comprising government officials, academics and NGOs from Baghdad, Mosul, Kirkuk and three Northern governorates attended the workshop.<sup>140</sup> Participants discussed means of implementing a documentation centre and establishing a truth commission to address past crimes and human rights violations. They agreed to adopt a number of measures, including advocating for governmental political support and funding for these mechanisms, engaging in awareness campaigns in the community, holding consultations and public debate, and establishing working committees to draft relevant legislation. Participants also requested UNAMI to continue providing technical expertise and advice and facilitating future meetings.

95. On 22 Oct, UNAMI hosted a follow-up transitional justice conference in Erbil on "*Transforming Past Conflicts - Establishing a Documentation Centre.*" The thirty participants included government officials and custodians of documents and materials relating to past crimes. Representatives of the US-based NGO, the Iraq Memory Foundation, which acts as repository for extensive archives obtained from Iraq, also participated and shared their experiences in establishing and managing a documentation centre. UNAMI facilitated the meeting, which focused on the mechanics of the proposed establishment of a documentation centre, mechanisms to protect individual privacy, the prevention of misuse of documents, and the handling of future legal inquiries.

96. On 27-29 November, UNAMI organized a seminar on "*Protection of Human Rights in Counter-Terrorism*" in Erbil, which focused on the importance of integrating human rights principles in counter-terrorism measures. An estimated 134 participants from the KRG comprising the ministers of Human Rights, Justice, Labor and Social Affairs and Region for Interior Affairs; senior officials representing the National Security Agency and the *Asayish*; Supreme Court judges and a number of investigative judges; parliamentarians and lawyers as well as the diplomatic community attended. The

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<sup>140</sup> This workshop was a follow-up to an earlier workshop organized by UNAMI in January 2007 (see UNAMI Human Rights Report, 1 January-31 March 2007).

seminar was led by principally by two experts from the Terrorism Prevention Branch of the UN Office of Drugs and Crime, who discussed types of terrorism and recent investigative techniques, a code of conduct and ethics for investigators, and experiences from other countries in counter-terrorism in the context of human rights and the rule of law. In the context of the Kurdistan Region, there was consensus on the necessity to provide specialized training to the criminal justice sector to strengthen capacity for preventing and combating terrorism within the framework of the rule of law and human rights; reviewing relevant legislation to ensure compliance with the global legal framework against terrorism; strengthening cooperation at the national level and the provision of technical assistance to enable the regional government to raise awareness among law enforcement officials on the rights of persons affected by counter-terrorism measures.